

# **APPENDIX I**

## **TAB L**

Sheila Harkins 1/3/05

SHEET 1 PAGE 1

00000  
1 IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
2  
3 TAMMY KITZMILLER; BRYAN and Civil Action No.  
CHRISTY REHN; DEBORAH PENIMORE. 04-CV-2688(M.D.Pa.)  
4 and JOEL LIEB; STEVEN STOUGH;  
BETH EVELAND; CYNTHIA SNEATH;  
5 JULIE SMITH; and ARALENE  
("BARRIE") D. and FREDERICK B.  
6 CALLAHAN,  
Plaintiffs  
7  
vs.  
8  
9 DOVER AREA SCHOOL DISTRICT;  
DOVER AREA SCHOOL DISTRICT  
BOARD OF DIRECTORS,  
10 Defendants  
11  
12  
13  
14 Deposition of: SHEILA HARKINS  
15  
Taken by : Plaintiffs  
16  
Date : January 3, 2005, 9:34 a.m.  
17  
Place : Dover Area School District  
Two School Lane  
Dover, Pennsylvania  
18  
By : Bethann M. Mulay, Notary Public  
Registered Professional Reporter  
19  
20  
21  
22  
23  
24  
25

PAGE 3

00002  
1 I N D E X  
WITNESS  
2  
3 Examination  
SHEILA HARKINS  
4 By Mr. Harvey 4  
5  
6  
7 EXHIBITS  
8  
9 Plaintiff's Deposition Page  
Exhibit Number Marked  
10 1. Complaint 84  
11 2. Answer 84  
12 4. News Library 24  
13 5. Documents Produced by Defendants 85  
Bates Numbered 1 through 167  
14  
15 7. Website Page of Thomas More Law 111  
Center  
16  
17  
18  
19  
20  
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25

PAGE 2

00001  
1 APPEARANCES:  
2 PEPPER HAMILTON LLP  
By: STEPHEN G. HARVEY, ESQ.  
3 -and-  
AMERICANS UNITED FOR SEPARATION OF CHURCH  
4 AND STATE  
By: RICHARD B. KATSKEE, ESQ.  
5  
For - Plaintiffs  
6  
THOMAS MORE LAW CENTER  
7 By: RICHARD THOMPSON, ESQ.  
8 For - Defendants  
9 ALSO PRESENT: David Depew  
10  
11  
12  
13  
14  
15  
16  
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19  
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PAGE 4

00003  
1 STIPULATION  
2 It is hereby stipulated by and between  
3 counsel for the respective parties that sealing,  
4 certification and filing are hereby waived; and  
5 all objections except as to the form of the  
6 question are reserved to the time of trial.  
7  
8 SHEILA HARKINS, called as a witness,  
9 having been duly sworn, testified as follows:  
EXAMINATION  
10  
11 BY MR. HARVEY:  
12 Q. Good morning, Ms. Harkins. I'm Steve Harvey.  
13 We met in court last week briefly. I'm going to  
14 be conducting your deposition today, and before  
15 we begin, I'd just like to make sure that you  
16 understand the procedure. Is that okay?  
17 A. Yes.  
18 MR. THOMPSON: Before we do that, I'd like  
19 to put a statement on the record, and that is  
20 that the deposition is being taken today  
21 pursuant to a court order authorizing these  
22 depositions for discovery purposes for the  
23 plaintiffs to determine whether they will file a  
24 temporary restraining order.  
25 It is my understanding in conversations

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SHEET 2 PAGE 5

00004  
 1 with the court and opposing counsel that the  
 2 judge wanted the depositions to be limited for  
 3 the purposes of determining the origins and  
 4 purpose of the policy and what will transpire in  
 5 the classroom on January 13, 2005. That is my  
 6 understanding of the purpose of this deposition.  
 7 It's limited to those things that I've  
 8 mentioned. Is that agreeable, Counsel?  
 9 MR. HARVEY: I neither agree with that nor  
 10 disagree with that. You've made a statement,  
 11 and I'm not required to comment upon that.  
 12 BY MR. HARVEY:  
 13 Q. Ms. Harkins, I'm going to ask you a series of  
 14 questions, and you're required to answer my  
 15 questions to the best of your knowledge and  
 16 ability subject to the oath that you've taken.  
 17 Do you understand?  
 18 A. Yes.  
 19 Q. It's necessary that you answer my questions  
 20 audibly so that the court reporter can  
 21 understand my words and your words and write  
 22 them down. Do you understand that?  
 23 A. Yes.  
 24 Q. It's necessary that you wait for me to complete  
 25 my question before you begin your answer because

PAGE 7

00006  
 1 A. Yes.  
 2 Q. What did you review?  
 3 A. I--  
 4 MR. THOMPSON: I'm going to object because  
 5 you're getting into attorney-client privilege at  
 6 this point and direct my client not to answer  
 7 the question unless you're more specific.  
 8 BY MR. HARVEY:  
 9 Q. Did you review any documents that helped you  
 10 remember things that you're going to testify  
 11 about today?  
 12 A. No.  
 13 MR. THOMPSON: Objection. Are you talking  
 14 about the conference that the attorney had with  
 15 her, or are you talking some other time?  
 16 MR. HARVEY: I'm talking about anytime.  
 17 A. No. Did I over the whole course of this last  
 18 seven months, eight months? Is that what you're  
 19 talking?  
 20 BY MR. HARVEY:  
 21 Q. No. I asked you whether in preparation for this  
 22 deposition--  
 23 A. No, no.  
 24 Q. I'm sorry, it's necessary that you let me finish  
 25 my question before you begin your answer.

PAGE 6

00005  
 1 she can't write it down if we're both speaking  
 2 at the same time. Do you understand?  
 3 A. Yes.  
 4 Q. Have you done anything to prepare yourself for  
 5 today's deposition?  
 6 A. No.  
 7 Q. Did you meet with your counsel?  
 8 A. I got out of bed this morning. That's what I  
 9 did.  
 10 Q. Did you meet with counsel?  
 11 A. No.  
 12 Q. Did you review any documents?  
 13 A. This morning, no, nothing.  
 14 Q. I don't mean just this morning, but to prepare  
 15 yourself for the deposition, did you meet with  
 16 counsel?  
 17 A. Yes.  
 18 Q. Who did you meet with?  
 19 A. Mr. Thompson and another gentleman, Patrick  
 20 Gillen.  
 21 Q. When did you meet with them?  
 22 A. Last evening.  
 23 Q. For how long?  
 24 A. Guesstimate, two hours.  
 25 Q. Did you review any documents?

PAGE 8

00007  
 1 A. I'm sorry.  
 2 Q. That's okay. It's a common thing. I'll try to  
 3 give you that courtesy, and we may make a  
 4 mistake.  
 5 A. I'm sorry.  
 6 Q. I understand. Was anyone present at that  
 7 meeting other than Mr. Thompson and Mr. Gillen  
 8 last night?  
 9 A. Yes.  
 10 Q. Who?  
 11 A. Mr. Bonsell, Mr. Buckingham, Dr. Nilsen, Mike  
 12 Baksa.  
 13 Q. Have you talked with anyone about your  
 14 deposition today other than at the meeting that  
 15 you attended last night?  
 16 A. No.  
 17 Q. Do you have any documents in your possession,  
 18 and I don't mean necessarily your possession  
 19 today, but at your home or at your office that  
 20 relate to the subject matter of this lawsuit  
 21 such as the intelligent design or the board's  
 22 resolution, the theory of evolution? Do you  
 23 have any documents in your possession that  
 24 relate to those subjects?  
 25 A. Yes.

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SHEET 3 PAGE 9

00008  
 1 Q. What documents do you have?  
 2 A. Only those provided by the administration.  
 3 Q. Where are those documents?  
 4 A. Throughout a mess in my house.  
 5 Q. Do you use a computer?  
 6 A. Yes, I do.  
 7 Q. Do you have documents on your computer such as  
 8 e-mails that relate to intelligent design or the  
 9 board's resolution or the theory of evolution?  
 10 A. Yes.  
 11 Q. Who are the e-mails from?  
 12 A. Different people.  
 13 Q. Can you tell me who they are?  
 14 A. I don't even know all the people. Is that what  
 15 you're asking? I can't-- I could provide you a  
 16 copy.  
 17 Q. Provide me a copy of what?  
 18 A. Of the e-mails.  
 19 Q. How many do you think there are?  
 20 A. Oh, less than half a dozen, less than, probably  
 21 three maybe.  
 22 Q. What do those e-mails concern?  
 23 A. One was a complaint by a teacher in Dallastown  
 24 that sent a letter to the editor of the paper  
 25 saying he taught intelligent design and he

PAGE 11

1 00010  
 2 1 no, I do not.  
 3 2 Q. Now, you're a member of the school -- the Dover  
 4 3 Area School District Board of Directors,  
 5 4 correct?  
 6 5 A. Yes.  
 7 6 Q. How long have you been a member of the board?  
 8 7 A. Seven years.  
 9 8 Q. You're the president right now?  
 10 9 A. Yes.  
 11 10 Q. How long have you been president?  
 12 11 A. Since one month.  
 13 12 Q. Were you ever president at any time in the past?  
 14 13 A. No.  
 15 14 Q. Have you ever been the head of any committees of  
 16 15 the board?  
 17 16 A. Yes.  
 18 17 Q. What committees?  
 19 18 A. You'd have to check back. I couldn't-- We take  
 20 19 turns, so.  
 21 20 Q. I understand. How about the curriculum  
 22 21 committee, have you ever been the head of that?  
 23 22 A. I don't think so.  
 24 23 Q. Have you ever been on the curriculum committee?  
 25 24 A. Yes.  
 26 25 Q. How many times?

PAGE 10

1 00009  
 2 1 wanted it published about what he taught and the  
 3 2 paper wouldn't publish it.  
 4 3 Q. What were the other ones?  
 5 4 A. I'm not-- Just comments.  
 6 5 Q. So in addition to these e-mails, you also have  
 7 6 paper documents in your office at home that  
 8 7 relate to the subject of intelligent design--  
 9 8 A. Yes, yes.  
 10 9 Q. You've got to let me finish. --that relate to  
 11 10 intelligent design or the board's resolution or  
 12 11 the theory of evolution?  
 13 12 A. Yes.  
 14 13 MR. THOMPSON: Objection. I don't think  
 15 14 she said office. The question was in your  
 16 15 office. I don't know if she does have an  
 17 16 office.  
 18 17 A. Yeah, I do, but it isn't just-- I have papers  
 19 18 scattered, yeah. It's not an organized-- Do I  
 20 19 have a file, no. Is that what you're asking?  
 21 20 BY MR. HARVEY:  
 22 21 Q. Did anybody ask you to look through those  
 23 22 documents and produce them for purposes of this  
 24 23 lawsuit?  
 25 24 A. Yes. Someone asked me if I had anything that  
 26 25 the administration would not have, and I said,

PAGE 12

1 00011  
 2 1 A. I don't know.  
 3 2 Q. What is the curriculum committee?  
 4 3 A. It's a chairperson and two other board members.  
 5 4 Q. How are the people selected to be on it?  
 6 5 A. Every year you are asked to put your name on the  
 7 6 list of what committees you would be willing to  
 8 7 serve on.  
 9 8 Q. Who makes the selection?  
 10 9 A. Whoever's the president.  
 11 10 Q. You were on the curriculum committee last year?  
 12 11 A. Yes.  
 13 12 Q. Who selected you to be on that?  
 14 13 A. Alan Bonsell.  
 15 14 Q. Who was on it with you?  
 16 15 A. I believe-- Let's see, it was Bill Buckingham  
 17 16 and I believe Casey Brown, I believe.  
 18 17 Q. Are you not sure about that?  
 19 18 A. Yes, I am not sure about that.  
 20 19 Q. Can you tell me why you're not sure about that?  
 21 20 A. Committees change all the time, and they even  
 22 21 sometimes change throughout the year.  
 23 22 Q. Do you work outside of the home?  
 24 23 A. No, I do not.  
 25 24 Q. Have you ever worked outside the home?  
 26 25 A. Yes.

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SHEET 4 PAGE 13

1 00012

2 1 Q. When is the most recent time you've worked

3 2 outside the home?

4 3 A. 1985.

5 4 Q. What did you do?

6 5 A. I worked-- I was a buyer with Voith Hydro.

7 6 Q. I'm sorry, I didn't hear that.

8 7 A. For Voith Hydro.

9 8 Q. What is Voith Hydro?

10 9 A. They build hydroelectric turbines.

11 10 Q. Can you tell me what's the highest level of

12 11 education that you have -- formal education that

13 12 you pursued?

14 13 A. Attended some college.

15 14 Q. Where?

16 15 A. York.

17 16 Q. Did you have a course of study there?

18 17 A. No, just took different courses.

19 18 Q. I think the court reporter would appreciate it

20 19 if you would spell Voith Hydro.

21 20 A. V-o-i-t-h.

22 21 Q. When you said college, you meant York?

23 22 A. Prior to that, it had been Allis Chalmers.

24 23 Q. You said the college was York. Is that York

25 24 community college?

26 25 A. No. It's just York College.

PAGE 14

1 00013

2 1 Q. Do you have any formal education in the area of

3 2 science?

4 3 A. No.

5 4 Q. Do you have any informal education, any reading

6 5 you've done, any courses that you've studied

7 6 that you've followed yourself in science?

8 7 A. No formal, no.

9 8 Q. I said any informal.

10 9 A. I'm sorry, no, just reading here and there. Is

11 10 that what you're saying? I have read things

12 11 here and there, but I do not consider myself a

13 12 scientist, no.

14 13 Q. Do you get any periodicals, scientific

15 14 periodicals?

16 15 A. No.

17 16 Q. Are you married?

18 17 A. Yes.

19 18 Q. Can you tell me your husband's name?

20 19 A. William.

21 20 Q. Do you have children?

22 21 A. Yes.

23 22 Q. Can you tell me their names and ages?

24 23 A. One daughter, Tina. I'm thinking how old she

25 24 is. She'd be 36.

26 25 Q. Any other children?

PAGE 15

1 00014

2 1 A. No.

3 2 Q. Did Tina attend Dover Area school?

4 3 A. Yes.

5 4 Q. Were you on the board at the time?

6 5 A. No.

7 6 Q. Why are you a member of the school board?

8 7 A. That's a good question. No one else ran.

9 8 Q. Maybe my question wasn't clear, and I apologize.

10 9 By the way, if at any point today you don't

11 10 understand one of my questions, would you please

12 11 let me know, and I'll rephrase the question?

13 12 A. Sure.

14 13 Q. If you don't hear one of my questions, please do

15 14 the same.

16 15 A. Yeah.

17 16 Q. I meant why did you want to become a board

18 17 member?

19 18 A. I have always had an interest in education.

20 19 Q. Do you have any education in education or any

21 20 background in education?

22 21 A. No, just an interest.

23 22 Q. Do you subscribe to any periodicals in the area

24 23 of education?

25 24 A. No.

26 25 Q. Do you attend church, a church?

PAGE 16

1 00015

2 1 MR. THOMPSON: Objection. I think that's

3 2 improper as far as the state of Pennsylvania is

4 3 concerned and also the federal rules of

5 4 evidence, Rule 610, getting into someone's

6 5 religious beliefs. Just answer that question,

7 6 but I want the counsel to be aware of my concern

8 7 in this area.

9 8 MR. HARVEY: Just so you know, I'm going to

10 9 ask her a number of questions about her

11 10 religious beliefs this morning.

12 11 MR. THOMPSON: I will object to them and

13 12 direct her not to answer. Answer that question.

14 13 BY MR. HARVEY:

15 14 Q. Do you attend a church?

16 15 A. Church per se, no.

17 16 Q. I don't understand when you say church per se.

18 17 What do you mean?

19 18 A. I attend a meeting.

20 19 Q. I see. Are you a Quaker?

21 20 A. Yes.

22 21 Q. Can you tell me what Quaker congregation you're

23 22 a member of?

24 23 A. I'm not a member.

25 24 Q. Do you attend a congregation from time to time?

26 25 A. Yes.

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SHEET 5 PAGE 17

1 00016

2 1 Q. Which one?

3 2 A. York.

4 3 Q. Can you give me the full name, York?

5 4 A. York meeting.

6 5 Q. Now, I'm going to ask you some questions now

7 6 about your religious views as they relate to

8 7 evolution and the theory of creation. Are you

9 8 familiar with the book of Genesis?

10 9 A. Yes.

11 10 Q. Have you ever read it?

12 11 A. Yes.

13 12 Q. Do you have a copy of the Bible at home?

14 13 A. Yes.

15 14 Q. Do you know what version of the Bible it is?

16 15 A. I have several.

17 16 Q. Which ones do you -- would you consult most

18 17 regularly?

19 18 A. Excuse me?

20 19 Q. If you were going to look at-- Tell me what

21 20 versions do you have?

22 21 A. Is it okay to answer?

23 22 MR. THOMPSON: It's a delicate area, but

24 23 I'm letting him--

25 24 A. Okay, I would have say King James, Thompson's.

26 25 What is the modern one called? I probably have

PAGE 19

1 00018

2 1 MR. HARVEY: Any other federal authority

3 2 other than rules of--

4 3 MR. THOMPSON: In Mergens it says a

5 4 person's religious belief is not relevant to the

6 5 constitutionality of any policy.

7 6 MR. HARVEY: Mergens, I'm not familiar with

8 7 Mergens.

9 8 MR. THOMPSON: That's Board of Education of

10 9 Westside Community Schools versus Bridget

11 10 Mergens, 496 US 226.

12 11 MR. HARVEY: Do you have a page on that?

13 12 MR. THOMPSON: Yes. I'm quoting at

14 13 Page 249, even if some legislators -- and this

15 14 is a quote from the case -- even if some

16 15 legislators were motivated by a conviction that

17 16 religious speech in particular was valuable and

18 17 worthy of protection, that alone would not

19 18 invalidate the act because what is relevant is

20 19 the legislative purpose of the statute, not the

21 20 possibly religious motives of the legislatures

22 21 who enacted the law. Because the act on its

23 22 face grants equal access to both secular and

24 23 religious speech, we think it's clear that the

25 24 act's purpose was not to endorse or disapprove

26 25 of religion.

PAGE 18

1 00017

2 1 three or four different ones.

3 2 BY MR. HARVEY:

4 3 Q. The book of Genesis describes creation of the

5 4 Heaven and earth and of the light forms. Isn't

6 5 that correct?

7 6 A. Yes.

8 7 Q. Do you believe in that?

9 8 MR. THOMPSON: Objection, direct her not to

10 9 answer the question.

11 10 BY MR. HARVEY:

12 11 Q. Are you going to follow your counsel's

13 12 instruction?

14 13 A. Yes, of course.

15 14 Q. My next question is, do you believe in a literal

16 15 reading of the book of Genesis as it relates to

17 16 creation?

18 17 MR. THOMPSON: Objection, direct her not to

19 18 answer the question. Pennsylvania law is clear,

20 19 no witness shall be questioned in any judicial

21 20 proceeding concerning his religious belief.

22 21 Also a similar rule is in the federal rules of

23 22 procedure.

24 23 MR. HARVEY: What federal rule of procedure

25 24 is that, Counsel?

26 25 MR. THOMPSON: Six ten.

PAGE 20

1 00019

2 1 MR. HARVEY: So you're instructing the

3 2 witness not to answer the question on the

4 3 grounds of relevance?

5 4 MR. THOMPSON: On the grounds of relevance,

6 5 on the grounds of the state statute of

7 6 Pennsylvania, and the federal rules.

8 7 MR. HARVEY: Do you realize that's highly

9 8 improper and under the federal rules in

10 9 particular in this district as under Judge

11 10 Gawthrop's opinion in Hall versus Clifton

12 11 Precision to instruct a witness not to answer a

13 12 question on any other grounds other than

14 13 privilege or to protect--

15 14 MR. THOMPSON: That's what I said, it's on

16 15 privilege. It is a privilege. We're not going

17 16 to turn this into an inquisition about what

18 17 someone's religious beliefs are.

19 18 MR. HARVEY: Well, we may have to consult

20 19 the court on that, but I'll go on right now.

21 20 MR. THOMPSON: Absolutely.

22 21 BY MR. HARVEY:

23 22 Q. Are you familiar with the theory of evolution?

24 23 A. Yes.

25 24 Q. What is the theory of evolution?

26 25 A. The theory of evolution that all things evolve



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SHEET 6 PAGE 21

1 00020  
 2 1 is my simple explanation.  
 3 2 Q. Are you referring now to the biological theory  
 4 3 of evolution?  
 5 4 A. I am not a scientist. I cannot give definitions  
 6 5 of terms.  
 7 6 Q. Can you tell me what your understanding of what  
 8 7 the biological theory of evolution is?  
 9 8 A. Would be that all things evolve, all living  
 10 9 things.  
 11 10 Q. Evolve from a common ancestor?  
 12 11 A. Evolve.  
 13 12 Q. Do you have an understanding about whether the  
 14 13 biological theory of evolution holds as a  
 15 14 proposition that all living life forms are  
 16 15 derived from a common ancestor?  
 17 16 MR. THOMPSON: That's been asked and  
 18 17 answered. She's not a scientist. She's  
 19 18 indicated that her own theory is things evolve  
 20 19 and she hasn't gotten any further than that.  
 21 20 She's indicated she doesn't know what the  
 22 21 biological theory of evolution is.  
 23 22 MR. HARVEY: Counsel, you are out of line  
 24 23 here. We are conducting a deposition in  
 25 24 accordance with the federal rules of civil  
 26 25 procedure, and the rules are very clear that all

PAGE 23

1 00022  
 2 1 throughout the day and objection-- I'd like to  
 3 2 proceed on that basis.  
 4 3 MR. HARVEY: Can you read back the last  
 5 4 question and answer.  
 6 5 (The court reporter read the previous  
 7 6 question.)  
 8 7 BY MR. HARVEY:  
 9 8 Q. Can you please answer that question?  
 10 9 A. I don't know.  
 11 10 Q. Does the theory of evolution in your mind  
 12 11 conflict with your religious views?  
 13 12 A. No, it does not.  
 14 13 Q. Have you ever had any conversations with anybody  
 15 14 on the school board about whether the theory of  
 16 15 evolution conflicts with your personal religious  
 17 16 views?  
 18 17 A. No, I have not.  
 19 18 Q. The school board members on October 18th were in  
 20 19 addition to you Mr. Buckingham, Ms. Geesey,  
 21 20 Mr. Wenrich, Mr. Bonsell, both Mr. and  
 22 21 Mrs. Brown, Ms. Yingling, and Ms. Cleaver. Am I  
 23 22 correct?  
 24 23 A. I don't know. I believe you.  
 25 24 Q. I believe that's the case. You don't understand  
 26 25 me to be wrong about that?

PAGE 22

1 00021  
 2 1 objections are to be concise in a  
 3 2 nonargumentative manner and that speaking  
 4 3 objections are entirely improper. You're  
 5 4 disrupting the deposition. We only have a  
 6 5 certain amount of time today. I request that  
 7 6 you please do not make speaking objections.  
 8 7 Your objections should be objection to the form  
 9 8 of the question. If I want to know the basis  
 10 9 for your objection, I will ask you.  
 11 10 MR. THOMPSON: First of all, I'm not going  
 12 11 to take a lecture from you, okay. She answered  
 13 12 the question twice, and you keep on asking her  
 14 13 what is her understanding of the theory of  
 15 14 biological evolution. She says she doesn't  
 16 15 know. She says she's not a scientist.  
 17 16 MR. HARVEY: I am not talking about the  
 18 17 witness's answer right now. I'm talking about  
 19 18 your conduct at this deposition. You are not to  
 20 19 interrupt the deposition with your  
 21 20 argumentative, speaking objections. Objection  
 22 21 should be as to the form of the question, and if  
 23 22 you feel that you need to instruct the witness  
 24 23 not to answer, you may do so. And we can bring  
 25 24 those issues up with the court. But it's not  
 26 25 proper to interject with speaking objections

PAGE 24

1 00023  
 2 1 A. I don't understand you to be wrong. I don't  
 3 2 know that, but I believe you.  
 4 3 Q. Have you ever had any conversations with any of  
 5 4 those people about whether the theory of  
 6 5 evolution conflicts with their personal  
 7 6 religious views?  
 8 7 A. No, I have not.  
 9 8 Q. Have any of those people ever shared with you  
 10 9 their personal views on their religious views as  
 11 10 it relates to the theory of evolution?  
 12 11 A. No.  
 13 12 (Plaintiff's Deposition Exhibit #4 marked  
 14 13 for identification)  
 15 14 BY MR. HARVEY:  
 16 15 Q. Ms. Harkins, I've just handed you what's been  
 17 16 marked as Plaintiff's Exhibit 4. There's no  
 18 17 need for you to look at it right now. It's a  
 19 18 long exhibit.  
 20 19 A. Do you want me to read this?  
 21 20 Q. No, no. Just bear with me for just a second.  
 22 21 I'm not asking you to read this right now. I  
 23 22 may ask you to refer to portions of this  
 24 23 throughout my questioning. And I'll tell you  
 25 24 right now it's a compendium of articles from the  
 26 25 York Daily Record and The York Dispatch over the

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SHEET 7 PAGE 25

1 00024

2 1 past year. I don't know if it's every article

3 2 that relates to the subject that led up to this

4 3 lawsuit, but it's certainly a number of them.

5 4 You are aware that the board's deliberations

6 5 over the last year about the biology curriculum

7 6 have generated a certain amount of press?

8 7 A. Yes.

9 8 Q. Do you read a newspaper on a daily basis?

10 9 A. Yes.

11 10 Q. Which one do you read?

12 11 A. York Daily Record.

13 12 Q. Do you ever read The York Dispatch?

14 13 A. Rarely.

15 14 Q. Why do you read the York Daily Record as opposed

16 15 to The York Dispatch?

17 16 A. That's the one that comes to my door.

18 17 Q. Is the Daily Record the morning paper?

19 18 A. Yes.

20 19 Q. Are you aware that the York Daily Record has

21 20 followed the board's actions over the past year

22 21 on the subject of the biology curriculum and had

23 22 quite a number of articles on that?

24 23 A. Followed or made it up?

25 24 Q. There's been reporting on it.

26 25 A. Yes.

PAGE 26

1 00025

2 1 Q. Have you ever contacted anyone at the paper to

3 2 tell them that the reporting is incorrect?

4 3 A. I have yelled at Joe Maldonado occasionally.

5 4 Q. Tell me on how many occasions have you done

6 5 that?

7 6 A. I couldn't count.

8 7 Q. More than five?

9 8 A. Probably.

10 9 Q. Do you remember the things that you yelled at

11 10 him about?

12 11 A. I couldn't even-- Many different topics.

13 12 Q. Why did you yell at him?

14 13 A. Because he's a lousy reporter.

15 14 Q. Why is he a lousy reporter?

16 15 A. He never reports what's said, rarely I should

17 16 say.

18 17 Q. Did you yell at him for the press coverage that

19 18 relates to the subject of the board's

20 19 deliberations about the biology curriculum?

21 20 A. Yes. But by that point I was getting tired of

22 21 him, and so I was telling him just stay away

23 22 from me.

24 23 Q. Are you aware of anything in particular that was

25 24 reported over the past year by the York Daily

26 25 Record that you believe was incorrect?

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2 1 A. I can't even think of all things.

3 2 Q. Can you think of any of the things?

4 3 A. Well, when we were discussing deliberating the

5 4 under God in the Pledge, his reporting was

6 5 askew.

7 6 Q. Anything else that you can remember that you

8 7 read in the York Daily Record that you believe

9 8 was incorrect?

10 9 A. There were some things about Angie Yingling that

11 10 were incorrect.

12 11 Q. What things about Angie Yingling?

13 12 A. I don't remember the specifics, but I remember

14 13 they were about Angie and they were totally

15 14 false that he reported.

16 15 Q. Anything else other than what you've just told

17 16 me about under God in the Pledge and things that

18 17 were reported by Angie Yingling that you believe

19 18 were reported incorrectly?

20 19 A. Not topics, no.

21 20 Q. Now, I'd like to go and ask you a question

22 21 starting about some events that began in June of

23 22 this past year. Do you remember there was a

24 23 board meeting on June the 7th?

25 24 A. I believe you. Do I remember the board

26 25 specifically, no.

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2 1 Q. The York Dispatch -- and I know that's not the

3 2 one you read, but I'm going to refer to it --

4 3 reported that a biology textbook for the Dover

5 4 Area School District was put on hold because it

6 5 didn't affect creationism. That was reported.

7 6 A. No, that's not true.

8 7 MR. THOMPSON: Could you refer to the--

9 8 Are you looking at a particular article?

10 9 MR. HARVEY: I am. But I'm not going--

11 10 I'm off that question for now. If you're

12 11 interested, it's The York Dispatch of June 8th.

13 12 A. I'm telling you that's not true.

14 13 BY MR. HARVEY:

15 14 Q. Well, tell me what did happen.

16 15 A. No discussion had ever been made on the biology

17 16 book as far as I was concerned about curriculum.

18 17 Q. Well, can you tell me the issues that led up to

19 18 the board's resolution of October the 18th

20 19 regarding intelligent design-- Do you know what

21 20 I'm talking about?

22 21 A. Yes.

23 22 Q. --began with consideration of a new biology

24 23 textbook?

25 24 A. No, I don't think that's true at all.

26 25 Q. How did it begin?



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2 1 A. I believe those were two separate issues.

3 2 Q. Well, let's talk about the biology textbook for

4 3 just a second. Do you remember consideration

5 4 about buying a new biology textbook for the

6 5 school this past year?

7 6 A. Yes.

8 7 Q. When did that discussion about that first begin?

9 8 A. Two years ago.

10 9 Q. When? What happened two years ago?

11 10 A. A parent came in and complained that their

12 11 student didn't have a biology textbook.

13 12 Q. Then what happened?

14 13 A. We looked into it, and the teacher said, yes,

15 14 they do. And then last year Barrie Callahan

16 15 came before the board and complained that her

17 16 child did not have a biology textbook, and we

18 17 said that we were told that they did. And

19 18 looking into it, we found out the textbooks that

20 19 we had bought the biology department they were

21 20 not using. And when we asked why, they said the

22 21 books that we bought them they had initially

23 22 asked-- Or they had only reviewed one chapter

24 23 of the books. And when they got the books in,

25 24 they didn't like the books that they asked for,

26 25 did not want to come back to the board and tell

PAGE 30

1 00029

2 1 us that they picked books that they couldn't

3 2 use, so they opted just to put the books in the

4 3 cupboard.

5 4 Q. And then what happened?

6 5 A. And they ended up using just supplemental

7 6 material they told us. So we said, you've got

8 7 to have a book, parents are complaining, we

9 8 don't have books. Also we have a cycle, and it

10 9 was coming up on the cycle of buying them. So

11 10 we told them pick a book.

12 11 Q. Who did you tell this to?

13 12 A. The biology department. The administration

14 13 relayed the information to them.

15 14 Q. Then what happened?

16 15 A. They picked a book.

17 16 Q. What was the book?

18 17 A. The same one they got here, only the previous

19 18 edition.

20 19 Q. When was this?

21 20 A. I believe June.

22 21 Q. Then what happened?

23 22 A. We ordered the book. The 2002 was on its way,

24 23 and it was sent back, and the 2004 was gotten.

25 24 Q. Who ordered the book?

26 25 A. I believe Mike Baksa. I don't know who orders

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2 1 the books.

3 2 Q. Did the school district board of directors

4 3 discuss the approval of a new book?

5 4 A. Yes.

6 5 Q. When did that happen?

7 6 A. I don't know.

8 7 Q. Why don't you know?

9 8 A. Because I don't know.

10 9 Q. When does the school district board of directors

11 10 meet, how often?

12 11 A. Generally the first and second Tuesday of the

13 12 month -- or Monday of the month, excuse me,

14 13 Monday of the month.

15 14 Q. Does it meet during the summer months?

16 15 A. Sometimes maybe once, sometimes not, maybe once

17 16 a month maybe.

18 17 Q. Do you remember any board meetings before June

19 18 -- before the summer at which the biology

20 19 textbook was discussed?

21 20 A. Board meetings?

22 21 Q. Yes.

23 22 A. No, I'm sorry, I don't remember.

24 23 Q. I'd like to ask you now to turn to this document

25 24 that you have in front of you. It's in

26 25 chronological order. And if you will turn to

PAGE 32

1 00031

2 1 there's a York Dispatch article on June the 9th.

3 2 A. This all says 12/31/04.

4 3 Q. Well, that's the date that I printed it out.

5 4 A. Well, what--

6 5 Q. I'll tell you what, I'll help you out here.

7 6 I'll represent to you I took these articles

8 7 right off the computer right off their website,

9 8 so.

10 9 A. Okay.

11 10 Q. If you'll look in this article, the second

12 11 paragraph says--

13 12 A. Wait a minute. I'm just trying to find your

14 13 date. June 9th?

15 14 Q. Yes.

16 15 A. Okay.

17 16 Q. York Dispatch, do you see that?

18 17 A. Okay.

19 18 Q. The second paragraph says that William

20 19 Buckingham, a board member and head of the

21 20 curriculum committee, said this week he was

22 21 disturbed by a proposed high school biology

23 22 textbook, the 2002 edition of Prentice Hall

24 23 Biology because it was laced with Darwinism.

25 24 A. Okay.

26 25 Q. Did you ever hear Mr. Buckingham say that?

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2 1 A. I'm not sure.

3 2 Q. Do you mean you don't remember?

4 3 A. I believe he may have said that, okay.

5 4 Q. If you look down for the three paragraphs after

6 5 that, it says, a recommendation on the book will

7 6 come from the curriculum committee which also

8 7 includes board members Sheila Harkins and Casey

9 8 Brown. Buckingham said the committee would look

10 9 for a book that presented both creationism and

11 10 evolution. Did I read that correctly?

12 11 A. Yes.

13 12 Q. Do you ever remember him saying that?

14 13 A. No.

15 14 Q. Do you remember him saying anything like that?

16 15 A. No. But I can't dispute it. We never looked

17 16 for a book that included both creationism and

18 17 evolution, never.

19 18 Q. The question is, did he ever say that to you,

20 19 that he was looking for a book that included

21 20 both?

22 21 A. Not to my recollection.

23 22 Q. Did Mr. Buckingham to your knowledge ever say

24 23 that the separation of church and state is a

25 24 myth or words to that effect?

26 25 A. I don't know, but I can't dispute it. Is that

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2 1 what you're asking me?

3 2 Q. I'm asking you if you have ever heard him say

4 3 that or words to that effect?

5 4 A. I'm not sure.

6 5 Q. You mean you don't remember?

7 6 A. Yes.

8 7 Q. Is it possible that he might have said things

9 8 like that and you just don't--

10 9 A. It's possible.

11 10 Q. This article is reporting on a meeting of the

12 11 school board on June the 8th of 2004. Would you

13 12 please take a moment to look at this article,

14 13 just read it.

15 14 MR. THOMPSON: You're referring to the

16 15 June 9th, 2004?

17 16 MR. HARVEY: Yes, I am, and actually to the

18 17 article that immediately follows it which is

19 18 from the York Daily Record.

20 19 A. Who's Boston? It says Boston said.

21 20 BY MR. HARVEY:

22 21 Q. I'm sorry, just-- I can't-- I don't know

23 22 anything except what's written in that article,

24 23 so if you would just read that, and then I can

25 24 ask you a couple questions.

26 25 A. Okay.

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2 1 Q. Now, having read those articles, do you remember

3 2 a board meeting on or about June the 8th?

4 3 A. Yes.

5 4 Q. Do you remember the discussions that occurred at

6 5 that meeting about the biology textbook?

7 6 A. Yes, I remember what I said here, and that was

8 7 pretty much true. I didn't say hardly used. I

9 8 said it was new, I think.

10 9 Q. Where are you referring then?

11 10 A. Down here where it says that she didn't think

12 11 the high school needed a new textbook. I did, I

13 12 said I don't think they need a new one. The new

14 13 one-- We have 220 new books there.

15 14 Q. Do you remember what the other board members

16 15 said on the subject of the new biology textbook?

17 16 A. There was a long discussion, a very long

18 17 discussion.

19 18 Q. Do you remember what anyone said?

20 19 A. Not specifically.

21 20 Q. Do you remember anybody talking about

22 21 creationism?

23 22 A. No.

24 23 Q. Do you remember anybody talking about-- Do you

25 24 remember Mr. Buckingham saying that-- And I'm

26 25 referring now to the York Daily Record article

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1 00035

2 1 of June the 9th in the third paragraph.

3 2 A. Wait a minute, maybe I didn't read it all. I

4 3 only read York Dispatch.

5 4 Q. Please read the next article as well.

6 5 A. I'm sorry, I thought you said York Dispatch

7 6 article.

8 7 Q. I apologize. I think I did say that, but please

9 8 read the Dispatch article. Have you had a

10 9 chance to read that?

11 10 A. Yes.

12 11 Q. Now, you've read the June 9th article from The

13 12 York Dispatch and the June 9th article from the

14 13 Daily Record, correct?

15 14 A. Correct.

16 15 Q. Does reading those articles help you remember

17 16 the things that were said by any of the board

18 17 members about the biology textbook or--

19 18 A. I question even if Joe Maldonado was even

20 19 there.

21 20 Q. Ma'am, let me finish my question. Then you can

22 21 answer. My question to you is, does this help

23 22 you remember anything that was said at the board

24 23 meeting that was held on or about June the 8th?

25 24 A. I can't say that it does, no.

26 25 Q. Do you remember that, and I'm referring now to

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2 1 the York Daily Record article of June 9th in the

3 2 third paragraph, do you remember Mr. Buckingham

4 3 saying the book Biology had been under

5 4 consideration but was declined because of its

6 5 one-sided reference to evolution?

7 6 A. I don't believe he said that.

8 7 Q. You have no recollection of that?

9 8 A. I don't believe he said it.

10 9 Q. Why don't you believe he said that?

11 10 A. Because I don't believe anything Joe Maldonado

12 11 writes.

13 12 Q. The next paragraph says, again quoting

14 13 Mr. Buckingham, it's inexcusable to teach from a

15 14 book that says man descended from apes and

16 15 monkeys. We want a book that gives balanced

17 16 education. Do you remember him saying that?

18 17 A. I don't believe he said it.

19 18 Q. You have no recollection of him saying that?

20 19 A. No.

21 20 Q. I'm sorry, then what is your answer?

22 21 A. I don't believe he said it.

23 22 Q. I'm asking you if you remember Mr. Buckingham

24 23 saying that.

25 24 A. No.

26 25 Q. You don't remember that?

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2 1 Q. Why do you believe that not to be true?

3 2 A. Because I was a part of the curriculum

4 3 committee, and I've never had anyone ever talk

5 4 about looking for a book of creationism and

6 5 evolution.

7 6 Q. What is creationism?

8 7 A. I think it has many meanings to many different

9 8 people.

10 9 Q. Do you have an understanding of it for yourself?

11 10 A. No.

12 11 Q. If you go down to the paragraph that's at the

13 12 bottom of the page, it says, Board President

14 13 Alan Bonsell disagreed saying there were only

15 14 two theories, creationism and evolution, that

16 15 could possibly be taught. He said as long as

17 16 both were taught as theories there would be no

18 17 problems for the district. Do you see those

19 18 words?

20 19 A. Yes.

21 20 Q. Do you remember anyone at the board meeting on

22 21 or about June 8th saying anything like that?

23 22 A. No, I have no recollection.

24 23 Q. Do you remember anyone saying anything like that

25 24 at any time?

26 25 A. No.

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2 1 A. I don't remember that.

3 2 MR. THOMPSON: Objection. I think that's a

4 3 mischaracterization. She said, I don't believe

5 4 he said it. It's different than I don't

6 5 remember.

7 6 MR. HARVEY: That's why I was trying to get

8 7 clarification on that.

9 8 A. I don't believe he said that.

10 9 BY MR. HARVEY:

11 10 Q. I understand that. And you don't believe that

12 11 because you said already you don't believe what

13 12 Mr. Maldonado writes, correct?

14 13 A. Correct.

15 14 Q. But I'm asking you if you have any recollection

16 15 of him saying that or anything like that?

17 16 A. No, I have no recollection of him saying

18 17 anything like that.

19 18 Q. The next paragraph says, Buckingham and other

20 19 board members are looking for a book that

21 20 teaches creationism and evolution. Do you see

22 21 that?

23 22 A. Yes.

24 23 Q. Do you remember anybody at the board meeting

25 24 saying anything like that?

26 25 A. No. And I believe that not to be true.

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2 1 Q. If you go down a little bit further to the

3 2 second to the last paragraph it says, after the

4 3 meeting, Buckingham said all he wants is a book

5 4 that offers balance between what he said are

6 5 Christian views of creationism and evolution.

7 6 Do you see that?

8 7 A. Yes.

9 8 Q. Do you recall Mr. Buckingham or anyone at the

10 9 board saying anything like that?

11 10 A. No.

12 11 Q. If you go to the last paragraph, it says,

13 12 quotes, he said there needn't be consideration

14 13 of the beliefs of Hindus, Buddhists, Muslims or

15 14 other faiths and views, direct quote, this

16 15 country wasn't founded on Muslim beliefs or

17 16 evolution, close quotes, he said. Open quotes,

18 17 this country was founded on Christianity, and

19 18 our students should be taught as such, close

20 19 quotes. Did I read that correctly?

21 20 A. You read that correctly.

22 21 Q. Do you remember Mr. Buckingham or anyone saying

23 22 anything like that at any time?

24 23 A. Yes.

25 24 Q. When was that?

26 25 A. He said it the first week of November a year

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2 1 ago, the only time he ever said that.

3 2 Q. What was that in the context of?

4 3 A. The under God in the Pledge of Allegiance.

5 4 Q. What was the-- Did the board consider the

6 5 Pledge of Allegiance and under God?

7 6 A. Yes.

8 7 Q. When was that?

9 8 A. The first Monday of November a year ago. It was

10 9 the day before election when Bill Buckingham was

11 10 up for election.

12 11 Q. Did the board discuss the Pledge of Allegiance?

13 12 A. Yes.

14 13 Q. What was the discussion about?

15 14 A. Issuing a referendum supporting the under God.

16 15 Q. Mr. Buckingham was a member of the board at that

17 16 time?

18 17 A. That is correct.

19 18 Q. He was up for reelection?

20 19 A. That is correct.

21 20 Q. What did he say that you recall?

22 21 A. He made this statement.

23 22 Q. When you say made this statement, the one

24 23 that's--

25 24 A. He made several statements.

26 25 Q. Can you tell me generally what those statements

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2 1 were, not exact quotes obviously?

3 2 A. Yes, because he and I were the ones that had the

4 3 disagreement including Jeff Brown and Casey

5 4 Brown.

6 5 Q. What was the disagreement?

7 6 A. Under God on the Pledge.

8 7 Q. Some people wanted it. I don't understand.

9 8 What was the--

10 9 A. Supporting under God in the Pledge.

11 10 Q. And some people were for that, and some people

12 11 were against it?

13 12 A. That's correct.

14 13 Q. Who was for it?

15 14 A. Everybody but Jeff, Casey, I think and myself.

16 15 Q. Mr. Buckingham was for this referendum

17 16 supporting under God in the Pledge of

18 17 Allegiance?

19 18 A. That's correct.

20 19 Q. What did he say in that context that was similar

21 20 to the statement that we looked at that I just

22 21 read a few minutes ago?

23 22 A. He said to me because I let him know I did not

24 23 support it-- I didn't feel it was in the

25 24 purview of the board to be addressing the issue.

26 25 That is when he made his 2,000 years ago

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2 1 somebody died for you on the cross statement to

3 2 me. And I'm only-- My recollection of the

4 3 conversation, Jeff said, Brown, said are you

5 4 trying to say under God in the Pledge means a

6 5 Christian God and then to which this comment

7 6 Bill Buckingham made.

8 7 Q. When you say this comment, you mean the comment

9 8 I read about Hindus, Buddhists, and Muslims?

10 9 A. That's correct.

11 10 Q. Mr. Buckingham also said something about was it

12 11 2,000 years ago a man died on a cross, can't

13 12 someone take a stand for him?

14 13 A. Yes, that's correct. He said it to me.

15 14 Q. Was that in an open public board meeting?

16 15 A. Yes, it was.

17 16 Q. And the statement about the Hindus, Buddhists,

18 17 and Muslims, was that in an open public board

19 18 meeting?

20 19 A. Yes, it was.

21 20 Q. Did anyone else at the board comment on those

22 21 statements?

23 22 A. Casey. Casey, also. I don't remember exactly

24 23 what Casey-- But Casey was.

25 24 MR. THOMPSON: Would you give the full

26 25 name.

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2 1 A. I'm sorry, Casey Brown was in on the

3 2 disagreement.

4 3 BY MR. HARVEY:

5 4 Q. What was her view?

6 5 A. Her view was she could not support personally

7 6 the resolution. She ended up the following week

8 7 voting for it but bawling her eyes out.

9 8 Q. Did any of the other board members speak up on

10 9 the subject?

11 10 A. They were not in on the disagreement.

12 11 Q. Did they speak on the subject of the

13 12 disagreement?

14 13 A. I don't recall. I don't recall.

15 14 Q. Did they speak in favor of having the words of

16 15 the--

17 16 A. Noel Wenrich made some comments, but I don't

18 17 recall what his comments were because I believe

19 18 Noel Wenrich was the one that proposed the

20 19 motion for the resolution.

21 20 Q. Now, the statement that we just read a couple

22 21 minutes from the York Daily Record on June 9

23 22 said that this was said on or about June the

24 23 8th.

25 24 A. It wasn't said then.

26 25 Q. How do you know that?

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2 1 A. He only said it once. Once was too much.

3 2 Q. In other words, you didn't hear him say -- make

4 3 this statement at the board meeting on or about

5 4 June 8th. Is that correct?

6 5 A. That is correct.

7 6 Q. You did hear him say that in or around November

8 7 of 2003, correct?

9 8 A. You better believe it.

10 9 Q. To the best of your knowledge, he didn't make

11 10 this statement again on June 8th?

12 11 A. That's correct. I believe Joe Maldonaldo dug

13 12 into his notes for it over the past.

14 13 Q. Now, if you just turn the page to the next

15 14 article, and you don't need to read the entire

16 15 article because I'm not going to ask you

17 16 questions about the entire article. I'm just

18 17 going to ask you about the fourth, fifth, and

19 18 sixth paragraph on the first page. I'm

20 19 referring to the York Daily Record article of

21 20 June the 10th.

22 21 A. This makes no sense because I don't know who

23 22 Bowman is.

24 23 Q. As I said, I'm just going to ask you questions

25 24 about the-- The third paragraph says, during

26 25 this past Monday night's board meeting, board

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2 1 A. No, I have no recollection of that.

3 2 Q. Well, let me just see if I just-- Do you

4 3 remember any board meeting in June at which the

5 4 biology textbook was discussed?

6 5 A. Yes, it was discussed, yes.

7 6 Q. You told me before what you remember about your

8 7 own views, that they already had a textbook and

9 8 they didn't need a new one, correct?

10 9 A. Correct.

11 10 Q. Do you remember any other discussion about the

12 11 biology textbook other than what your own views

13 12 were?

14 13 A. There could have been other comments made, and I

15 14 believe there were, but I don't recollect what

16 15 they were.

17 16 Q. At all?

18 17 A. I was only concerned with my issue.

19 18 Q. I understand, but do you have any recollection

20 19 at all about what the other comments were about

21 20 the biology textbook in June of 2004?

22 21 A. I'm not sure.

23 22 Q. Just to be clear, you have no real memory

24 23 whatsoever about what other people thought or

25 24 said on the board about the biology textbook?

26 25 A. I was focused on my own issue.

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2 1 members Alan Bonsell, Noel Wenrich, and

3 2 Buckingham spoke aggressively in favor of having

4 3 a biology book that includes theory of creation

5 4 as part of the text. Next paragraph, all I'm

6 5 asking for is balance Buckingham said.

7 6 Next paragraph, asked if he thought this

8 7 might violate the separation of church and

9 8 state, Buckingham called the law, quotes, a

10 9 myth, close quotes. Did I read that correctly?

11 10 A. Yes, you read that correctly.

12 11 Q. Now, do you remember, and I know I've asked you

13 12 about this already, but any discussion at this

14 13 board meeting or any board meeting where

15 14 Mr. Bonsell, Mr. Wenrich, and Mr. Buckingham

16 15 spoke aggressively or otherwise in favor of

17 16 having a biology book that includes theories of

18 17 creation as part of the text?

19 18 A. I have no recollection of that.

20 19 Q. Do you remember Mr. Buckingham ever saying all

21 20 I'm asking for is balance?

22 21 A. No, I do not recollect that.

23 22 Q. I already asked you and you already told me that

24 23 you do not believe that he said -- you don't

25 24 recall him ever saying that the separation of

26 25 church and state was a myth, correct?

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2 1 Q. I completely understand that. I just want to

3 2 make sure that we're not missing anything here.

4 3 You have no memory whatsoever of what anybody

5 4 else said?

6 5 A. I can't-- I'm not sure what anyone else said.

7 6 Q. Do you have even any vague recollection of what

8 7 anybody else said?

9 8 A. No, I'm not-- I have no vague recollection.

10 9 I'm sorry.

11 10 Q. Now, if you'll turn to the next page of the

12 11 exhibit, it's a York Dispatch article from June

13 12 the 11th.

14 13 A. Which page?

15 14 Q. Actually you don't read The York Dispatch, so

16 15 I'm going to go on to the page after that. I'm

17 16 sorry, it's the York Daily Record article from

18 17 June the 14th of 2004.

19 18 A. This one?

20 19 Q. Yes, that's the article right there. And it

21 20 says in-- The first sentence says, last time

22 21 Dover school board member William Buckingham

23 22 said a new biology book for the district should

24 23 offer a balance between creationism and Darwin's

25 24 theory of evolution. Do you see that?

26 25 A. Yes.



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1 00048  
2 1 Q. Do you remember reading that at the time?  
3 2 A. No.  
4 3 Q. Do you remember reading any of these articles at  
5 4 the time?  
6 5 A. No, to be honest, I don't.  
7 6 Q. Do you read the paper the York Daily Record on a  
8 7 daily basis?  
9 8 A. No. I get it on a daily basis. I don't  
10 9 necessarily read it on a daily basis.  
11 10 Q. What about the articles about the school board,  
12 11 do you read them?  
13 12 A. No, particularly not Joe Maldonaldo's.  
14 13 Q. Now, I'd like you to go forward just a few  
15 14 articles, and there is a York Daily Record  
16 15 article of June the 15th of 2004.  
17 16 A. June 15th, okay.  
18 17 Q. Do you see that it says, book is focus of more  
19 18 debate, that's the headline?  
20 19 A. Um-hum.  
21 20 Q. Please take a moment to read that article. I'd  
22 21 like to ask you just a few questions about it.  
23 22 A. I'm reading the one by Heidi Bernhard, is that  
24 23 what one you're telling me?  
25 24 Q. No. It's York Daily Record of June the 15th.  
26 25 MR. THOMPSON: Joseph Maldonaldo.

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1 00050  
2 1 A. Correct.  
3 2 Q. Do you remember him saying anything like that?  
4 3 A. No, have no recollection.  
5 4 Q. And then it has the quote there, 2,000 years ago  
6 5 someone died on a cross, he said, can't someone  
7 6 take a stand for him.  
8 7 A. He never said that.  
9 8 Q. He didn't said that at a board meeting?  
10 9 A. He only said that the year before. He never  
11 10 said that again.  
12 11 Q. If you look down -- two paragraphs down it says,  
13 12 but in reference to its teaching of Darwinism,  
14 13 he said, I challenge you, the audience, to trace  
15 14 your roots from the monkey you came from. Do  
16 15 you see that?  
17 16 A. Yes.  
18 17 Q. Did he say that?  
19 18 A. I don't know.  
20 19 Q. Do you have any recollection of that or anything  
21 20 like that?  
22 21 A. I believe he may have said something like that.  
23 22 Q. Then if you go to the next page-- Ms. Harkins.  
24 23 A. I'm sorry, I was still reading what Casey is  
25 24 supposed to have said.  
26 25 Q. But if you go to the next page in the fourth

PAGE 50

1 00049  
2 1 A. I'm sorry. Okay.  
3 2 BY MR. HARVEY:  
4 3 Q. Do you remember reading this article at or about  
5 4 the time it was published by the paper?  
6 5 A. No.  
7 6 Q. Do you think that you did read this article at  
8 7 that time?  
9 8 A. Probably not.  
10 9 Q. This says that at the board meeting which was on  
11 10 the Monday before this which I think was June  
12 11 the 14th William Buckingham, quotes, apologized  
13 12 to anyone he may have offended with the comments  
14 13 he made at last week's board meetings during  
15 14 discussions over a new biology book for the high  
16 15 school.  
17 16 A. Okay.  
18 17 Q. Do you remember him making such an apology?  
19 18 A. No.  
20 19 Q. Then in the fifth paragraph it said that  
21 20 Buckingham said, quotes, while he was growing  
22 21 up, his generation prayed and read from the  
23 22 Bible during school. Then he said, liberals in,  
24 23 quotes, black robes, close quotes, were taking  
25 24 away the rights of Christians, close quotes. Do  
26 25 you see that?

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1 00051  
2 1 paragraph down it says, quotes, also during  
3 2 public comments, Buckingham's wife, Charlotte  
4 3 Buckingham, argued that evolution teaches  
5 4 nothing but lies. After quoting several verses  
6 5 from the book of Genesis in the Bible, she asked  
7 6 how can we allow anything else to be taught in  
8 7 our schools, close quote.  
9 8 A. Charlotte only quoted verses from the Bible the  
10 9 year before, November before. She never  
11 10 quoted-- She never did that again. This didn't  
12 11 happen.  
13 12 Q. Just one question I forgot to ask you, are you  
14 13 taking any medication today for your cold?  
15 14 A. Just Advil.  
16 15 Q. You're not taking anything that would prevent  
17 16 you from remembering events correctly or  
18 17 testifying fully and completely today, are you?  
19 18 A. No.  
20 19 MR. THOMPSON: Counsel, could we take a  
21 20 break. I think she's been here for about an  
22 21 hour. I'm not sure.  
23 22 A. Can I take something?  
24 23 MR. HARVEY: I would like to take a break  
25 24 at 11:00 unless the witness has to use the  
26 25 ladies room or something.



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SHEET 14 PAGE 53

1 00052

2 1 A. No. I'm all right.

3 2 BY MR. HARVEY:

4 3 Q. So you don't recall Mr. Buckingham's wife saying

5 4 anything, reading any verses from the Bible in

6 5 June of this past year?

7 6 A. I'd say she did not. She only ever did it once.

8 7 Q. Then further down there's a paragraph that

9 8 reads--

10 9 A. We told her it was inappropriate.

11 10 Q. Further on down there's a paragraph that reads,

12 11 during the meeting, Buckingham told those in

13 12 attendance that he'd been asked to tone down his

14 13 Christian remarks. But I must be who I am, and

15 14 not politically correct, he said. Do you see

16 15 those words?

17 16 A. No, I'm sorry, I don't know where you're at.

18 17 Q. I'll point.

19 18 A. Okay, here, I found you. All right.

20 19 Q. Do you remember him saying anything like that?

21 20 A. No, but he may have.

22 21 Q. You said that someone told Ms. Buckingham to

23 22 tone it down I think were your words.

24 23 A. No. That was your words.

25 24 Q. You said, I believe, just a few minutes ago that

26 25 someone spoke to Ms. Buckingham.

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1 00054

2 1 textbook or intelligent design or creationism or

3 2 evolution?

4 3 A. No, I'm sorry.

5 4 Q. Does it help you remember anybody's statements

6 5 at those meetings other than your own statement

7 6 which you told us about before?

8 7 A. No.

9 8 Q. So after reading this, you still have no

10 9 recollection of anyone's statements about the

11 10 biology textbook or creationism or evolution

12 11 other than what you told us earlier about your

13 12 own statement about the biology textbook,

14 13 correct?

15 14 A. Correct.

16 15 Q. Now, I'd like to ask you in general -- we're

17 16 going to move on and talk about some other

18 17 subjects right now. We'll use this again

19 18 later -- about the process for changes in the

20 19 curriculum at the high school. Is there a

21 20 process that the board is required to follow --

22 21 not the board necessarily but that is required

23 22 to be followed in general for changes to the

24 23 school curriculum at the high school?

25 24 A. There's a process, but I don't know it formally.

26 25 Is that what you're asking?

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1 00053

2 1 A. Oh, Charlotte.

3 2 Q. Yes.

4 3 A. As I understood. I was told that.

5 4 Q. Who told you that?

6 5 A. I don't recall, but somebody mentioned to me.

7 6 Charlotte was told that it was inappropriate.

8 7 And I believe it was at the meeting the November

9 8 before. When she was reading from the Bible,

10 9 she was stopped, and she was told it was

11 10 inappropriate. But I don't remember-- I guess

12 11 it would have been Noel Wenrich who was board

13 12 president probably told her -- stopped her in

14 13 the middle of her reading the Bible saying this

15 14 is not the time or the place to be reading the

16 15 Bible.

17 16 Q. And that was back again back in November 2002?

18 17 A. That's correct.

19 18 Q. Now, we just read--

20 19 A. It was inappropriate.

21 20 Q. You just read for me the York Daily Record

22 21 article of June the 15th. And that reports on a

23 22 second board meeting in June of 2004. And my

24 23 question is, does reading this article help you

25 24 remember anything else that was said at board

26 25 meetings in June of 2004 about the biology

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1 00055

2 1 Q. Yes, I'm asking if you know what the process is.

3 2 A. No. I know there is one. It's a step of

4 3 reviews.

5 4 Q. Where would you go if you wanted to figure out

6 5 what that process was?

7 6 A. I'd ask the administration.

8 7 Q. But you don't have any knowledge of what that

9 8 process is. Did I understand correctly?

10 9 A. Specifics on it, I'm not really sure on it.

11 10 Q. How about just general, can you tell me what it

12 11 is just generally?

13 12 A. If I wanted something changed, I'd go to the

14 13 administration, talk to them about it, and ask

15 14 them to do it or the process for doing it.

16 15 Q. So you don't have any general understanding of

17 16 how the process for curriculum changes works.

18 17 Am I correct about that?

19 18 A. I know there's reviews, but I don't know the

20 19 specifics of those reviews.

21 20 Q. Well, I just want to understand. I'm not asking

22 21 you for the specifics. I just want to

23 22 understand whether there's a process.

24 23 A. There's a process.

25 24 Q. I thought that the process works something like

26 25 this -- and I'll tell you what my understanding

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1 00056

2 1 is, and it may be wrong. I don't know. I'm

3 2 asking for this -- that usually curriculum

4 3 changes begin with the teachers and the school

5 4 administration and the faculty, and then there

6 5 is a request for a curriculum change, and then

7 6 the faculty and the administration work with the

8 7 board.

9 8 There's a curriculum committee on the board

10 9 that considers it. Input is taken not only from

11 10 the faculty and the administration but also from

12 11 a citizens advisory council. And then

13 12 ultimately the board is required to approve

14 13 whatever change it is. Is that your

15 14 understanding of how it works?

16 15 A. No.

17 16 Q. Do you have an understanding that I'm incorrect?

18 17 A. Yeah. I wouldn't think you were correct.

19 18 Q. Well, what is the-- What does the curriculum

20 19 committee do?

21 20 A. See, I would have always thought that the board,

22 21 too, I thought gave input before. You said only

23 22 teachers.

24 23 Q. Again, I was just-- I'm not sure that I'm

25 24 right. I was just trying to see if you could

26 25 tell me. So you don't know what the process is?

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1 00058

2 1 Spahr, Mike Baksa, myself, Bill Buckingham. I

3 2 can't recall who else, if anyone else, was

4 3 there. Casey Brown opted not to come.

5 4 Q. When were those meetings?

6 5 A. I believe they were right after school so the

7 6 teachers wouldn't have to stay, like at 3:00.

8 7 Q. I mean, were they in the beginning -- in the

9 8 summer, in June?

10 9 A. They were before school let out, so I'm thinking

11 10 end of May, beginning of June, something like

12 11 that.

13 12 Q. So you recall meetings with the people that you

14 13 just said, two of them, and they happened in or

15 14 around May or June?

16 15 A. Yes.

17 16 Q. What was discussed at those meetings?

18 17 A. The policy change, the curriculum, policy

19 18 curriculum.

20 19 Q. What policy curriculum?

21 20 A. The statement of gaps and problems.

22 21 Q. The one that was adopted by the board on--

23 22 A. Yes.

24 23 Q. I'm sorry, you need to let me complete my

25 24 question. The one that was adopted by the board

26 25 on October the 18th?

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1 00057

2 1 A. That's correct.

3 2 Q. There is a curriculum committee we've already

4 3 discussed that you were on it last year,

5 4 correct?

6 5 A. That is correct.

7 6 Q. What is the role of the curriculum committee on

8 7 the school board?

9 8 A. The curriculum committee reviews the curriculum.

10 9 We get oftentimes curriculum is presented or

11 10 changes.

12 11 Q. Does the curriculum committee have any role

13 12 other than just reviewing the curriculum?

14 13 A. Yes.

15 14 Q. What is that role?

16 15 A. If they need-- If there are meetings that need

17 16 to be had, the curriculum committee goes to

18 17 these meetings.

19 18 Q. What kind of meetings?

20 19 A. Well, last year we had meetings with the biology

21 20 department.

22 21 Q. What kind of meet-- How many meetings did you

23 22 have with the biology department?

24 23 A. I'm not sure. I'm thinking two.

25 24 Q. Who was present?

26 25 A. It would have been Jen Miller, Mr. Eshbach, Burt

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1 00059

2 1 A. Yes.

3 2 Q. That was discussed with the teachers in May and

4 3 June?

5 4 A. In that time frame sometime, May or June, not

6 5 necessarily May and June. I don't know.

7 6 Q. But it wasn't August or September?

8 7 A. That's correct.

9 8 Q. Do you remember what the school teachers had to

10 9 say about the curriculum change?

11 10 A. No. But I felt the tone of the meeting was very

12 11 good. I felt everyone was in agreement.

13 12 Q. Agreement about what?

14 13 A. The statement that was worked out or presented.

15 14 Q. Now, in addition to these meetings with the

16 15 school faculty that were present, were there

17 16 other meetings where just the school board

18 17 curriculum committee--

19 18 A. No, not that I'm aware of, not that I recall.

20 19 Q. Did you ever have any telephone conversations

21 20 with members of the board about the curriculum

22 21 change?

23 22 A. I don't remember any, no.

24 23 Q. Did you ever have any e-mails with the board

25 24 about that?

26 25 A. No.

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SHEET 16 PAGE 61

1 00060

2 1 Q. Any conversations outside of the school board

3 2 meetings with school board members about the

4 3 curriculum change?

5 4 A. No, not that I recall, no.

6 5 Q. Let me just make sure I understand this. I just

7 6 asked you about the curriculum change and

8 7 whether there were meetings or e-mails or

9 8 conversations outside of the school board about

10 9 the subject of the curriculum change, and I'd

11 10 like to know whether you can tell me whether to

12 11 your knowledge there were any discussions

13 12 outside of the school board meeting about the

14 13 biology textbook or the theory of evolution or

15 14 creationism or intelligent design or the board's

16 15 resolution on October 18th, whether e-mails or

17 16 letters or meetings or phone calls, that

18 17 happened outside of the school board meetings.

19 18 A. Wow, that's such a vast question. I mean,

20 19 you're asking about 10 things there at one time.

21 20 MR. THOMPSON: I'll object on the basis

22 21 that it's a complex question and compound

23 22 question if you could rephrase it.

24 23 A. I was going to say if you can read that question

25 24 back and read it back parcel by parcel.

26 25 BY MR. HARVEY:

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1 00062

2 1 change and wanted to know our comments on it.

3 2 But you would have to ask Mike and Bill for

4 3 their recollection.

5 4 Q. So, now, other than that meeting that you're not

6 5 a hundred percent sure about, do you ever

7 6 remember any conversations with any school board

8 7 members outside of the school board meetings or

9 8 the two meetings we talked about and this

10 9 possible meeting about school board business?

11 10 A. Any school board business ever?

12 11 Q. Over the past year.

13 12 A. We probably have.

14 13 Q. Do you remember any?

15 14 A. No specifics, no.

16 15 Q. Do you remember any conversations of that nature

17 16 that related to the biology textbook or the

18 17 theory of evolution?

19 18 A. There was conversation. Mike Baksa called.

20 19 Would that qualify in your--

21 20 Q. Sure.

22 21 A. He called about ordering the textbook without

23 22 board approval.

24 23 Q. When did he do that?

25 24 A. I don't remember when exactly, if I'd have a

26 25 problem with that.

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1 00061

2 1 Q. Let me ask you a question. Do you ever remember

3 2 over the past year having meetings with school

4 3 board members about school board business other

5 4 than regularly scheduled school board meetings

6 5 or the two curriculum meetings you just told me?

7 6 A. Read that back.

8 7 (The court reporter read back the previous

9 8 question.)

10 9 A. No meetings. We may have had discussions that--

11 10 I'm not sure.

12 11 BY MR. HARVEY:

13 12 Q. So you don't remember any meetings for that

14 13 purpose, correct?

15 14 A. No, no.

16 15 Q. In other words I'm correct?

17 16 A. Now wait, there may have been one-- I think

18 17 there may have been one with Mike Baksa, myself,

19 18 and Bill Buckingham, and you would have to ask

20 19 them to make sure of that.

21 20 Q. Do you think there was?

22 21 A. I'm thinking there was one.

23 22 Q. What was discussed at it?

24 23 A. I am thinking-- I am thinking Mike just came to

25 24 us and presented to us what the teachers decided

26 25 they wanted to change or something and the

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1 00063

2 1 Q. What did he tell you in that conversation?

3 2 A. He said they wanted to get it ordered and he was

4 3 calling around to see if he had at least five

5 4 board members that would go along with ordering

6 5 it ahead of time.

7 6 Q. And what did you say?

8 7 A. Go ahead.

9 8 Q. What book was this?

10 9 A. Whatever one the biology teachers wanted.

11 10 Q. It wasn't Of Pandas and People?

12 11 A. No.

13 12 Q. You can remember a conversation with Mr. Baksa?

14 13 A. Um-hum.

15 14 Q. Any other conversations with any school board

16 15 members or school administrators other than the

17 16 ones you've told us about, about the resolution

18 17 or intelligent design or the theory of evolution

19 18 or the biology textbook?

20 19 A. Board members, any other board members?

21 20 Q. Or the school district officials.

22 21 A. I did with the solicitor.

23 22 Q. When did you meet with the solicitor?

24 23 A. I'm not sure.

25 24 Q. Who was present?

26 25 A. I'm not sure of that.

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SHEET 17 PAGE 65

1 00064

2 1 Q. Were there other people present?

3 2 A. I believe it was at a student hearing.

4 3 Q. What did you discuss with the solicitor?

5 4 A. I wanted him to run it by every organization,

6 5 group he could think of to make sure that it was

7 6 legal.

8 7 Q. Run what by?

9 8 A. The policy, the curriculum.

10 9 Q. What curriculum?

11 10 A. The gaps problems, the statement.

12 11 Q. What else did you say to the solicitor?

13 12 A. I wanted to know whether it was -- there was any

14 13 legal issues.

15 14 Q. Did he ever tell you that there were?

16 15 A. No. He told me there weren't.

17 16 Q. Who was that?

18 17 A. Steve Russell.

19 18 Q. Did he tell you in writing?

20 19 A. In fact, specifically I told him to run it by

21 20 the ACLU, and he got back to me and told me he

22 21 did.

23 22 Q. Did he do that in writing or in person?

24 23 A. No, verbally. He said he ran it by every think

25 24 tank he could come up with and it passed muster.

26 25 You would have to ask him who he ran it by.

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1 00065

2 1 Q. So you had a conversation with him?

3 2 A. Yes, I did.

4 3 Q. And this was at a student hearing?

5 4 A. I believe it was a student hearing, yes.

6 5 Q. How long was your conversation with him?

7 6 A. Thirty seconds maybe. That's approximate.

8 7 Q. Do you remember saying to him anything other

9 8 that you wanted him to run this curriculum

10 9 change by everyone he could think of to see if

11 10 it was legal?

12 11 A. That's correct.

13 12 Q. Do you remember anything else you said to him?

14 13 A. No.

15 14 Q. He said that he would do that?

16 15 A. He said he would do that.

17 16 Q. Did he say anything else to you at that time?

18 17 A. Not that I recollect.

19 18 Q. He later reported to you that--

20 19 A. I asked him. No, I asked him. I had to call

21 20 and ask him.

22 21 Q. How long was that conversation?

23 22 A. Less than a minute.

24 23 Q. He told you that he ran it by everybody

25 24 including the ACLU and everybody said it was

26 25 okay?

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1 00066

2 1 A. That's correct.

3 2 Q. Did you ever have any other conversations on

4 3 that subject with him?

5 4 A. Nope.

6 5 Q. Did you ever have any conversations with anybody

7 6 else about your conversation with Mr. Russell?

8 7 A. Yes.

9 8 Q. With whom?

10 9 A. Dr. Nilsen, Mike Baksa, I'd say some of the

11 10 board members.

12 11 Q. When was that?

13 12 A. I'm not sure.

14 13 Q. Was that at a meeting?

15 14 A. It wasn't-- I believe it could have been like

16 15 at student hearings.

17 16 Q. What did you tell Mr. Nilsen, Mr. Baksa, and the

18 17 board members about it?

19 18 A. That if Steve didn't have a problem with it I

20 19 didn't have a problem with it.

21 20 Q. Do you remember any other conversations about

22 21 the curriculum change with anyone other than the

23 22 people you've already told me about outside of

24 23 school board meetings?

25 24 A. Not that I recollect at the moment, I'm sorry.

26 25 Q. Is the curriculum committee required to keep

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1 00067

2 1 minutes?

3 2 A. I don't think any committee has ever kept

4 3 minutes since I've been on the board.

5 4 Q. Do you know if the curriculum committee is

6 5 required to keep minutes?

7 6 A. No, they're not.

8 7 MR. THOMPSON: Objection, calls for a legal

9 8 conclusion.

10 9 A. I don't think they are, never have. How's that?

11 10 Is that okay?

12 11 MR. THOMPSON: Just answer his question,

13 12 but it calls for a legal conclusion.

14 13 BY MR. HARVEY:

15 14 Q. Is there a curriculum advisory committee?

16 15 A. I believe that's the committee with parents and

17 16 staff I think and board. I've never been to any

18 17 meetings of those that I recall.

19 18 Q. Do you know does it have a role in the process

20 19 of making curriculum changes?

21 20 A. I believe curriculum is supposed to be run by

22 21 the curriculum advisory committee, but I don't

23 22 know that it's run by them at a formal meeting.

24 23 Q. Do you know if the curriculum advisory committee

25 24 was ever consulted or told about the change to

26 25 the biology curriculum?

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SHEET 18 PAGE 69

1 00068  
 2 1 A. I don't know that.  
 3 2 Q. You don't know one way or another?  
 4 3 A. That's correct. I know Barrie Callahan  
 5 4 complained that it had not been, but I don't  
 6 5 know that to be true.  
 7 6 MR. HARVEY: We're at just a couple minutes  
 8 7 before 11:00, so why don't we take a break now.  
 9 8 (Recess taken)  
 10 9 BY MR. HARVEY:  
 11 10 Q. Let's talk about the book Of Pandas and People.  
 12 11 A. Okay.  
 13 12 Q. Have you ever seen a copy of the book?  
 14 13 A. Yes.  
 15 14 Q. I'm holding a copy up.  
 16 15 A. Yes.  
 17 16 Q. When did you see a copy before today?  
 18 17 A. I don't remember. It was back in-- I don't  
 19 18 know when it was. Maybe, I'm going to guess--  
 20 19 Can I guess?  
 21 20 Q. No, you shouldn't guess, but if you have an  
 22 21 idea, then you can give me in a range.  
 23 22 A. June, July.  
 24 23 Q. Who showed it to you, or how did you get a copy?  
 25 24 A. I believe it was at the board meeting, I  
 26 25 believe.

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1 00070  
 2 1 that was covered in there.  
 3 2 A. Oh, I remember some flowers, something about  
 4 3 flowers in there. I'm trying to think what else  
 5 4 I-- I'm not specific on anything, no.  
 6 5 Q. So you can't remember anything else other than  
 7 6 what you just told us about the Pandas book?  
 8 7 A. I mean, that's what I think when I looked at it  
 9 8 I was looking for.  
 10 9 Q. You were looking for intelligent design?  
 11 10 A. I was looking for something of that nature,  
 12 11 yeah.  
 13 12 Q. A number of copies of the book were donated to  
 14 13 the school district?  
 15 14 A. Yes.  
 16 15 Q. Do you know how many copies were donated?  
 17 16 A. Do I know?  
 18 17 Q. Yes.  
 19 18 A. I only know what I've been told.  
 20 19 Q. What were you told?  
 21 20 A. Somebody said 50 or 60.  
 22 21 Q. How do you know that? Who told you that?  
 23 22 A. I believe Dr. Nilsen or Mike Baksa said that.  
 24 23 Q. Do you know who donated it?  
 25 24 A. I have no idea.  
 26 25 Q. Did you ever ask?

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1 00069  
 2 1 Q. Have you ever read it?  
 3 2 A. Read it?  
 4 3 Q. Yes.  
 5 4 A. Cover to cover, no.  
 6 5 Q. Have you read any parts of it?  
 7 6 A. I glanced through it.  
 8 7 Q. For how long?  
 9 8 A. Estimate an hour.  
 10 9 Q. Do you remember anything in there that it said?  
 11 10 A. Could I quote anything in that book, no.  
 12 11 Q. Do you remember what it said generally?  
 13 12 A. Glancing through it, it appeared like a biology  
 14 13 book.  
 15 14 Q. Do you remember anything else that it said  
 16 15 generally other than appearing like a biology  
 17 16 book?  
 18 17 A. Specifically what?  
 19 18 Q. Anything you can remember that it said in there  
 20 19 or that it taught, concepts it covered?  
 21 20 A. It did cover intelligent design, but if you ask  
 22 21 me--  
 23 22 Q. Anything else other than intelligent design that  
 24 23 it covered?  
 25 24 A. Oh, it had lots of things in it.  
 26 25 Q. I'm just asking if you can remember anything

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1 00071  
 2 1 A. Nope.  
 3 2 Q. Why not?  
 4 3 A. I had no interest.  
 5 4 Q. Do you know that it was raised -- the question  
 6 5 was raised at a school board meeting by someone  
 7 6 named Larry Snook, he asked who donated it?  
 8 7 A. Now that you mentioned it, I think he did.  
 9 8 Q. What was he told, do you remember?  
 10 9 A. I don't recall.  
 11 10 Q. Do you know why it was not made public who  
 12 11 donated them?  
 13 12 A. I never thought about it.  
 14 13 Q. Well, you thought about it when Mr. Snook raised  
 15 14 it at the meeting, right?  
 16 15 A. Not really.  
 17 16 Q. So somebody donated 50 or 60 copies of a book to  
 18 17 the school district that covered the subject of  
 19 18 intelligent design, and you had no desire  
 20 19 whatsoever to know who had done that?  
 21 20 A. No desire whatsoever, no thought about it.  
 22 21 Q. What about now that you're the school board  
 23 22 president, are you curious to find that out?  
 24 23 A. No. We have books donated all the time, and I'm  
 25 24 not interested in who is donating what books.  
 26 25 Q. Were you ever at any meetings where -- other



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SHEET 19 PAGE 73

1 00072

2 1 than the meeting we just discussed involving the

3 2 question by Mr. Snook where a donation of the

4 3 book was discussed?

5 4 A. Run that by me again.

6 5 Q. Were you ever at any meetings where the book

7 6 donation was discussed?

8 7 A. No.

9 8 Q. What's your understanding of what intelligent

10 9 design is?

11 10 A. Intelligent design has been defined so widely

12 11 and varied, I don't know that I could give a

13 12 definition.

14 13 Q. Can you describe for me what it is in a general

15 14 sense, intelligent design?

16 15 A. I don't know that there is a definition in a

17 16 general sense.

18 17 Q. Well, if someone asked you as a school board

19 18 president what is this intelligent design that's

20 19 referenced in the school board resolution, how

21 20 would you answer that?

22 21 A. I would say you would have to search that out

23 22 for yourself.

24 23 Q. Do you have any understanding yourself about

25 24 what intelligent design is?

26 25 MR. THOMPSON: Objection, asked and

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1 00074

2 1 between an opinion or an idea? What is the

3 2 difference?

4 3 Q. You don't know the difference between what I'm

5 4 going to ask, whether it's your opinion or

6 5 whether that's your understanding of what it is?

7 6 A. No, I don't understand the difference between

8 7 that.

9 8 Q. Has anybody at any point explained to you as a

10 9 board member what intelligent design is?

11 10 A. When you say explained, I've read different

12 11 things, or people have talked to me, but I don't

13 12 take that as that's what it is.

14 13 Q. What have people told you?

15 14 A. Oh, everything from obviously some people

16 15 perceive it as religion which I do not.

17 16 Q. Who has told you anything about intelligent

18 17 design?

19 18 A. Oh, I can't-- I'm trying to think. I can't

20 19 give specifics who's talked to me.

21 20 Q. Well, do you know if it was a board member or a

22 21 teacher or a member of the community at large?

23 22 A. I may have had conversation already with members

24 23 of the community, but I can't be specific.

25 24 Q. You don't remember who any of them are?

26 25 A. No.

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1 00073

2 1 answered, but go ahead.

3 2 A. I am still open minded, I think.

4 3 BY MR. HARVEY:

5 4 Q. So you don't have any idea for yourself what it

6 5 means?

7 6 A. Not a firm definition. I'm still exploring.

8 7 Q. Do you have any general understanding what

9 8 intelligent design is?

10 9 A. Well, I have not formed any opinions on

11 10 intelligent design yet to give a definition.

12 11 Q. I'm not asking for a definition. I'm just

13 12 asking if you can tell me in the most -- in any

14 13 way you can, even in the most general sense,

15 14 what intelligent design is.

16 15 A. I can define it widely, but I might change my

17 16 opinion tomorrow. Is that fair?

18 17 Q. Yes, sure.

19 18 A. That every living cell possibly is designed down

20 19 to the tiniest organism and if it is designed

21 20 how it may have been designed, if there was

22 21 possibly a designer or something.

23 22 Q. Now, is that your opinion of intelligent design,

24 23 or is that your understanding of what

25 24 intelligent design is?

26 25 A. Well, I don't know. What's the difference

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1 00075

2 1 Q. I'm sorry?

3 2 A. No, I'm sorry.

4 3 Q. So you can't tell me the name of anybody who has

5 4 told you about what intelligent design is.

6 5 Isn't that correct?

7 6 A. Well, I'm thinking. E-mail count? Does e-mail

8 7 count?

9 8 Q. Yes.

10 9 A. Yeah, I have an e-mail from somebody -- from a

11 10 teacher in Dallastown.

12 11 Q. When was that e-mailed?

13 12 A. I'm not sure.

14 13 Q. Was it before or after the school board

15 14 resolution of October 18th?

16 15 A. I'm not sure of that.

17 16 Q. Can you produce a copy of that e-mail?

18 17 A. Sure.

19 18 MR. HARVEY: Counsel, I'd like to receive a

20 19 copy of that if I may as soon as possible,

21 20 obviously not during this deposition.

22 21 BY MR. HARVEY:

23 22 Q. Do you remember what the e-mail said about

24 23 intelligent design?

25 24 A. About how the teacher in Dallastown handled it.

26 25 Q. What did it say about that?



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SHEET 20 PAGE 77

1 00076

2 1 A. It was the biology teacher in Dallastown and how

3 2 he handled it. And he wanted it published in

4 3 the newspaper, and the newspaper refused to

5 4 publish it.

6 5 Q. Did he say in there what intelligent design was?

7 6 A. Yeah.

8 7 Q. What did he say?

9 8 A. He did a master's thesis on it.

10 9 Q. Did he tell you what intelligent design was?

11 10 A. What his interpretation was, I believe.

12 11 Q. What was that? What did he say?

13 12 A. I'm not really sure exactly what he said in the

14 13 e-mail, but you're certainly free to review it.

15 14 Q. But you can't remember what he said sitting here

16 15 today about what intelligent design is?

17 16 A. It was-- It attempted to talk about design of

18 17 -- and recognizing design I believe of all

19 18 living things.

20 19 Q. Design by whom?

21 20 A. I don't know that it addressed that.

22 21 Q. Did it say anything else about what intelligent

23 22 design is?

24 23 A. I don't remember.

25 24 Q. Other than this e-mail that you just told us

26 25 about and that you're going to provide us a copy

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1 00078

2 1 Q. Byron Borger, B-o-r-g-e-r?

3 2 A. I believe.

4 3 Q. What did Mr. Borger say to you?

5 4 A. His good friend tried to put this letter in the

6 5 paper about intelligent design and they wouldn't

7 6 publish it. And he is a known person in the

8 7 community. He runs all the science contests for

9 8 the kids in the county.

10 9 Q. Who is this person?

11 10 A. His name is Mr. I think McKeary (phonetic) or

12 11 something like that.

13 12 Q. What does he teach?

14 13 A. Biology at Dallastown. He just retired.

15 14 Q. He says he teaches intelligent design?

16 15 A. He said he did.

17 16 Q. Other than this e-mail that you received, you

18 17 can't recall the names of anybody else who told

19 18 you anything about intelligent design? I know

20 19 I've already asked you that, but I'm just trying

21 20 to be clear. Is that correct?

22 21 A. To the best of my recollection at the moment, I

23 22 can't recall.

24 23 Q. Have you read anything about intelligent design?

25 24 A. Briefly maybe.

26 25 Q. Do you remember what you read?

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1 00077

2 1 with, has anyone else told you what intelligent

3 2 design is?

4 3 A. I'm sorry.

5 4 Q. Is the answer no, that no one else has?

6 5 A. No, I don't remember.

7 6 Q. That e-mail, was that unsolicited, in other

8 7 words, it just came to you in an unsolicited

9 8 way?

10 9 A. I'm not sure. I'm trying to recollect how it

11 10 come to me.

12 11 Q. What do you remember about that?

13 12 A. I believe it was from -- through a friend of

14 13 his.

15 14 Q. But you didn't seek out that e-mail, did you?

16 15 A. No. It was mentioned to-- No, no, no, no, no,

17 16 I did not.

18 17 Q. Somebody just sent this to you unsolicited, in

19 18 other words?

20 19 A. I believe the person -- somebody I knew

21 20 mentioned it and said -- I said, what are you

22 21 talking about.

23 22 Q. Who mentioned it to you?

24 23 A. I believe it was a Byron Borger.

25 24 Q. I'm sorry, I didn't get the name.

26 25 A. Byron Borger.

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1 00079

2 1 A. No.

3 2 Q. Do you know whether intelligent design stands

4 3 for the proposition that life forms owe their

5 4 origin to an intelligent actor?

6 5 A. I don't even know what you said.

7 6 MR. THOMPSON: Objection. She's already

8 7 indicated she doesn't know what intelligent

9 8 design is. Go ahead and try to answer the

10 9 question.

11 10 A. I don't know what you just said.

12 11 MR. HARVEY: Can we stipulate that she

13 12 doesn't know what intelligent design is?

14 13 MR. THOMPSON: She indicated she doesn't.

15 14 There are many definitions. She doesn't know.

16 15 She's still forming her opinion. Now you're

17 16 asking her a specific definition.

18 17 MR. HARVEY: Okay.

19 18 BY MR. HARVEY:

20 19 Q. Is it your understanding that intelligent design

21 20 teaches that life owes its origins to an

22 21 intelligent actor?

23 22 MR. THOMPSON: Objection.

24 23 A. No. I wouldn't--

25 24 BY MR. THOMPSON:

26 25 Q. Is it your understanding that intelligent design

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SHEET 22 PAGE 85

1 00084

2 1 theories of evolution including, but not limited

3 2 to, intelligent design. Note: Origins of life

4 3 not taught.

5 4 A. Yes.

6 5 Q. Now, that resolution you recall was passed by a

7 6 six to three vote by the board on October 18,

8 7 2003?

9 8 A. I believe that's correct.

10 9 Q. Now, do you remember that school board meeting

11 10 on October 18?

12 11 A. Not really. I'm sorry.

13 12 Q. Do you remember anything about it at all?

14 13 A. No.

15 14 Q. Do you remember if there was any discussion of

16 15 this resolution at that meeting?

17 16 A. I'm not sure-- I'm not clear if this is the

18 17 meeting where there was like A, B, C.

19 18 (Plaintiff's Deposition Exhibit #5 marked

20 19 for identification)

21 20 BY MR. HARVEY:

22 21 Q. I'm handing you an exhibit which has been marked

23 22 as Plaintiff's Exhibit 5. It's a copy of all of

24 23 the documents that were produced by the

25 24 defendants in preparation for this deposition

26 25 with the exception of the documents they

PAGE 87

1 00086

2 1 Q. Actually enclosures, excuse me.

3 2 A. Where are they?

4 3 Q. And if you look behind it, they're directly

5 4 there. I believe they're not in the correct

6 5 order. But the first one behind it at 146 is an

7 6 Enclosure XI-B?

8 7 A. Excuse me?

9 8 Q. At Page 146 and 147 is Exhibit XI-B.

10 9 A. Yes.

11 10 Q. You see that there's a reference there to-- Do

12 11 you see there at the bottom what it says,

13 12 Students will be made aware of gaps in Darwin's

14 13 theory and other theories of evolution?

15 14 A. Okay, yes, all right.

16 15 Q. And the cover memo says that that's the

17 16 recommended changes from the administration and

18 17 staff?

19 18 A. Okay.

20 19 Q. And then the next one right behind it at 148 and

21 20 149 says there's attached a recommended change

22 21 to the biology curriculum from the board

23 22 curriculum committee.

24 23 A. Yes.

25 24 Q. That one's a little different. It says,

26 25 students will be made aware of gaps/problems in

PAGE 86

1 00085

2 1 produced this morning.

3 2 A. Okay.

4 3 Q. If you will please turn to-- There's page

5 4 numbers on the bottom. Do you see them?

6 5 A. Yep. I can take the rubber band off, I presume.

7 6 Q. Yes. Just keep it in order, please. Please

8 7 turn to Page 139.

9 8 A. Okay.

10 9 Q. And you'll see there is what's the agenda for

11 10 that meeting, correct?

12 11 A. Yes.

13 12 Q. And then if you flip through that, that goes on

14 13 for a number of pages. And then it says on

15 14 Page Number 145, curriculum, and it makes

16 15 reference to a change to the Biology I - Grade 9

17 16 Planned Course/Curriculum Guide. Do you see

18 17 that?

19 18 A. All right.

20 19 Q. Have you ever seen that before?

21 20 A. Obviously yes.

22 21 Q. Do you remember reading it?

23 22 A. No.

24 23 Q. Then it makes reference to some exhibits or

25 24 attachments.

26 25 A. Okay.

PAGE 88

1 00087

2 1 Darwin's theory and of other theories of

3 2 evolution including, but not limited to,

4 3 intelligent design. And it refers to as a

5 4 reference book Of Pandas and People.

6 5 A. Yes.

7 6 Q. Was that, in fact, the recommendation of the

8 7 curriculum committee?

9 8 A. Yes.

10 9 Q. You were on that curriculum committee?

11 10 A. Yes.

12 11 Q. And you supported that?

13 12 A. Yes. I didn't have a problem with that.

14 13 Q. What was the purpose of the proposed change that

15 14 was advanced by the curriculum committee?

16 15 A. Because it was looked at if you only offer one

17 16 theory of evolution you are presenting that as a

18 17 fact. You need to find other theories. And the

19 18 only other theory anyone was aware of was

20 19 intelligent design. But they would have liked

21 20 to have presented other theories, but no one

22 21 could think of any of them.

23 22 Q. Was that discussed at the curriculum committee?

24 23 A. I think so, yeah.

25 24 Q. Was anybody consulted about this theory of

26 25 intelligent design? Did the curriculum

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SHEET 23 PAGE 89

1 00088  
 2 1 committee go to anybody and say we need some  
 3 2 information about intelligent design?  
 4 3 A. Not that I'm aware of.  
 5 4 Q. Do you know who drafted that language?  
 6 5 A. No, I don't.  
 7 6 Q. Do you know if Mr. Buckingham drafted that  
 8 7 language?  
 9 8 A. No, I don't.  
 10 9 Q. Did Mr. Buckingham tell you that he had spoken  
 11 10 with anybody from the Thomas More Law Center  
 12 11 about this resolution?  
 13 12 A. No.  
 14 13 Q. Did he say he had spoken with anybody from any  
 15 14 other outside organizations such as The  
 16 15 Discovery Institute?  
 17 16 A. Not that I recollect, no.  
 18 17 Q. Have you ever spoken to anybody from The  
 19 18 Discovery Institute?  
 20 19 A. Just recently.  
 21 20 Q. When did you speak to them recently?  
 22 21 A. Last month after we were sued.  
 23 22 Q. Now, was this The Discovery Institute, or was it  
 24 23 the Thomas More Law Center?  
 25 24 A. It was The Discovery Institute.  
 26 25 Q. Did you ever have any conversations with anybody

PAGE 90

1 00089  
 2 1 from the Thomas More Law Center before meeting  
 3 2 Mr. Thompson who's next to you at court last  
 4 3 week?  
 5 4 A. No, not that I recollect.  
 6 5 Q. What were your conversations with The Discovery  
 7 6 Institute about--  
 8 7 MR. THOMPSON: Objection. They had a  
 9 8 lawyer, and they were in an executive committee  
 10 9 meeting. I'm not sure whether that's covered by  
 11 10 the attorney-client privilege or not.  
 12 11 BY MR. HARVEY:  
 13 12 Q. You had an executive committee meeting of the  
 14 13 board of directors of the school district?  
 15 14 A. Well--  
 16 15 MR. THOMPSON: That's when they--  
 17 16 A. Okay.  
 18 17 BY MR. HARVEY:  
 19 18 Q. Do you remember that?  
 20 19 A. Yeah.  
 21 20 Q. Do you remember contacting somebody from The  
 22 21 Discovery Institute on the phone?  
 23 22 A. No, I never did.  
 24 23 Q. Was there somebody from The Discovery Institute  
 25 24 there?  
 26 25 A. Yes.

PAGE 91

1 00090  
 2 1 Q. They were in person?  
 3 2 A. Um-hum.  
 4 3 Q. Who was that?  
 5 4 A. I'm sorry, there were two people, two guys  
 6 5 there, two men. They were attorneys. You would  
 7 6 have to get the names from the administration,  
 8 7 don't know the names.  
 9 8 Q. What was their purpose in being at the meeting?  
 10 9 A. They wanted to represent us.  
 11 10 Q. Was it Mr. Thompson?  
 12 11 A. No. Thompson, that doesn't ring a bell.  
 13 12 Q. Isn't this Mr. Thompson right here?  
 14 13 A. Yeah. But they were from Discovery Institute.  
 15 14 I mean, you're saying from Discovery Institute  
 16 15 Mr. Thompson, no. I'm trying to think of his--  
 17 16 I'm sorry.  
 18 17 Q. You discussed with these -- at these gentlemen  
 19 18 from The Discovery Institute, did you discuss  
 20 19 this lawsuit?  
 21 20 MR. THOMPSON: Objection. I think it is  
 22 21 covered by the attorney-client privilege.  
 23 22 MR. HARVEY: I think she can answer the  
 24 23 question whether this lawsuit was discussed  
 25 24 without--  
 26 25 A. I would say yeah.

PAGE 92

1 00091  
 2 1 BY MR. HARVEY:  
 3 2 Q. Who was present at this meeting other than the  
 4 3 board members?  
 5 4 A. Dr. Nilsen. I don't recall if Mike Baksa was  
 6 5 there or not.  
 7 6 Q. Let me ask you a question. Without telling me  
 8 7 what the substance of that conversation with  
 9 8 these gentlemen was, I want you to tell me if  
 10 9 you can remember the substance of the  
 11 10 conversation with these gentlemen from The  
 12 11 Discovery Institute.  
 13 12 A. Other than they wanted to represent us, that  
 14 13 was -- I mean and their proposal.  
 15 14 MR. HARVEY: Counsel, I'll be careful here.  
 16 15 BY MR. HARVEY:  
 17 16 Q. I just want to know can you-- Let me get to my  
 18 17 next question. Now, had you ever spoken to  
 19 18 anybody from The Discovery Institute before  
 20 19 that?  
 21 20 A. I don't recall.  
 22 21 Q. Did the board consult with anyone outside of the  
 23 22 board about the language of the resolution that  
 24 23 was adopted on October the 18th?  
 25 24 A. Sure. I told you our attorney.  
 26 25 Q. Anyone other than that?

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SHEET 24 PAGE 93

1 00092  
 2 1 A. No, not that I know of.  
 3 2 Q. Now, if you'd look at the -- go to the next page  
 4 3 which is Page Number 150 and 151.  
 5 4 A. Okay.  
 6 5 Q. That's Enclosure XI-C to the agenda.  
 7 6 A. Yes.  
 8 7 Q. This is the language in bold at the bottom that  
 9 8 was actually adopted, correct?  
 10 9 A. Yes, that's correct. Now wait a minute.  
 11 10 MR. THOMPSON: On 151?  
 12 11 A. No, not on 151, no. That's not the right one.  
 13 12 BY MR. HARVEY:  
 14 13 Q. I'm sorry. Let's turn now to page-- We'll  
 15 14 clarify this right now. If you turn to  
 16 15 Page 159 -- I'm sorry, with 160, the very next  
 17 16 page, it says there, on motion by Mr. Buckingham  
 18 17 and seconded by Mrs. Cleaver that the changes to  
 19 18 the Biology I - Grade 9 Planned  
 20 19 Course/Curriculum Guide for the 2004-2005 school  
 21 20 year as per Enclosure XI-A be approved with the  
 22 21 amendment that the origins of life is not  
 23 22 taught.  
 24 23 A. Okay.  
 25 24 Q. That's actually that was passed six to three.  
 26 25 A. Okay.

PAGE 95

1 00094  
 2 1 view.  
 3 2 Q. What's your view?  
 4 3 A. My view is I wanted to-- I encourage critical  
 5 4 thinking.  
 6 5 Q. Any other--  
 7 6 A. And questioning.  
 8 7 Q. Any other reasons--  
 9 8 A. No.  
 10 9 Q. --for you? That's the only reason for you why  
 11 10 you--  
 12 11 A. Yes.  
 13 12 Q. Now, do you know what any of the purpose -- why  
 14 13 any of the other board members voted for the  
 15 14 resolution?  
 16 15 A. No, no idea.  
 17 16 Q. Was there any discussion about that?  
 18 17 A. No.  
 19 18 Q. So the board meeting as a whole had no  
 20 19 discussion for the purpose of the resolution.  
 21 20 Am I correct about that?  
 22 21 A. Not to my recollection.  
 23 22 Q. In other words, to the best of your  
 24 23 recollection, I am right that you don't remember  
 25 24 anything about the board discussing the purpose  
 26 25 for the resolution, correct?

PAGE 94

1 00093  
 2 1 Q. So, in other words, it was the language of  
 3 2 Enclosure XI-A with the additional language, the  
 4 3 origin of life not taught?  
 5 4 A. Yes.  
 6 5 (Recess taken)  
 7 6 BY MR. HARVEY:  
 8 7 Q. Now, let's go back to a subject you discussed  
 9 8 just a couple minutes ago. And I would like to  
 10 9 know if you know what was the board's purpose in  
 11 10 passing the resolution of October 18.  
 12 11 A. It was to present more than one theory,  
 13 12 something besides just Darwin.  
 14 13 Q. Why did the board want to do that, present more  
 15 14 than one theory?  
 16 15 MR. THOMPSON: Objection. We're talking  
 17 16 about a board, and you're talking about the  
 18 17 motivations of several people. I don't think  
 19 18 she's competent to say why the board did  
 20 19 something.  
 21 20 BY MR. HARVEY:  
 22 21 Q. I'll ask the question.  
 23 22 A. Me.  
 24 23 Q. If you understand, why did the board want to  
 25 24 present more than one theory?  
 26 25 A. I can't say why the board, but I can give you my

PAGE 96

1 00095  
 2 1 A. That is correct.  
 3 2 Q. Well, did the board discuss the purpose for  
 4 3 including the words intelligent design in the  
 5 4 resolution?  
 6 5 A. I don't recall any discussion why.  
 7 6 Q. Do you remember anybody communicating any views  
 8 7 as to why that was included in the resolution?  
 9 8 A. I can only give you my view why I wanted it  
 10 9 included.  
 11 10 Q. I'm going to ask you about that in just a  
 12 11 second. But what I'd like to know is if anybody  
 13 12 else communicated their views about why they  
 14 13 wanted that included.  
 15 14 A. No.  
 16 15 Q. Why did you want that included?  
 17 16 A. As I said before, to give some other view other  
 18 17 than just Darwin and I felt to encourage  
 19 18 critical thinking in any area of science.  
 20 19 Q. What about the curriculum committee, did it have  
 21 20 any discussion of the purpose for the  
 22 21 resolution?  
 23 22 A. I don't remember any discussion.  
 24 23 Q. Do you remember any members of the curriculum  
 25 24 committee expressing their views about the  
 26 25 purpose for the resolution?

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SHEET 26 PAGE 101

1 00100  
 2 1 Q. Have you ever seen this page before?  
 3 2 A. It doesn't look familiar to me at all. I don't  
 4 3 recall ever seeing this, no.  
 5 4 Q. Do you ever take notes during board meetings?  
 6 5 A. Usually no, no.  
 7 6 Q. Do you take notes during curriculum committee  
 8 7 meetings?  
 9 8 A. No.  
 10 9 Q. Do you know if others take notes?  
 11 10 A. Generally I didn't think they did. Casey does--  
 12 11 Casey did once in a while.  
 13 12 MR. THOMPSON: It's past 12:00, and I think  
 14 13 the agreement was this deposition would go to  
 15 14 12:00, and it's according to my watch five past  
 16 15 12:00.  
 17 16 MR. HARVEY: The agreement was that it  
 18 17 would go to 12:30.  
 19 18 MR. THOMPSON: What's the lunch hour?  
 20 19 MR. HARVEY: The lunch hour is 12:30 to  
 21 20 1:30.  
 22 21 A. I don't know where this came from.  
 23 22 BY MR. HARVEY:  
 24 23 Q. Now, that's fine. You can just close that.  
 25 24 That was my question.  
 26 25 A. Never saw it.

PAGE 103

1 00102  
 2 1 Q. --and the attachment. Is that right?  
 3 2 A. Okay.  
 4 3 Q. This is the statement that's going to be read to  
 5 4 the students?  
 6 5 A. Yes.  
 7 6 Q. Well, actually it's not this whole thing. It's  
 8 7 just the language at the bottom of the first  
 9 8 page and the top of the second page?  
 10 9 A. That's correct, those four paragraphs.  
 11 10 Q. Who drafted that language?  
 12 11 A. I would presume the administration did.  
 13 12 Q. Do you know?  
 14 13 A. No, I don't know.  
 15 14 Q. Do you know if this was revised from what was  
 16 15 originally in the press release?  
 17 16 A. I believe it was because when I had initially  
 18 17 read this, I felt there were grammatical errors,  
 19 18 but I think there was some grammar changed.  
 20 19 Q. Do you know whose idea it was to read this  
 21 20 statement to students?  
 22 21 A. No.  
 23 22 Q. Did the board approve it?  
 24 23 A. I'm not sure of that.  
 25 24 Q. Do you know one way or another whether the board  
 26 25 approved it?

PAGE 102

1 00101  
 2 1 Q. What's your understanding right now about what's  
 3 2 going to happen with respect to the board's  
 4 3 resolution, how it's going to be implemented in  
 5 4 January?  
 6 5 A. They're going to read that paragraph and that's  
 7 6 it.  
 8 7 Q. Which paragraph?  
 9 8 A. That you had given me there.  
 10 9 Q. The one that's referenced in the complaint?  
 11 10 A. Yeah, yeah.  
 12 11 Q. The one on Page 2?  
 13 12 A. Yes. Is that it? Isn't that it? Oh, excuse  
 14 13 me, that's not the full paragraph.  
 15 14 Q. Are you looking at the Plaintiff's Exhibit 1?  
 16 15 A. There's four paragraphs. There's four  
 17 16 paragraphs.  
 18 17 Q. Are you looking at a document?  
 19 18 A. Yeah.  
 20 19 Q. Can I see the document you're looking at?  
 21 20 MR. THOMPSON: It was attached as Exhibit 1  
 22 21 to our answer.  
 23 22 BY MR. HARVEY:  
 24 23 Q. So now you're looking at Plaintiff's Deposition  
 25 24 Exhibit 2--  
 26 25 A. Yes.

PAGE 104

1 00103  
 2 1 A. No, I don't know one way or the other.  
 3 2 Q. So it's your understanding that beginning in  
 4 3 January this statement is going to be read to  
 5 4 students?  
 6 5 A. That's correct.  
 7 6 Q. Do you know if students are going to be told  
 8 7 anything else about these subjects?  
 9 8 A. I'm sure they're not.  
 10 9 Q. What if the students have questions, what are  
 11 10 they going to be told?  
 12 11 A. Teachers are not to respond. I think they've  
 13 12 been told that. I believe the administration  
 14 13 put out some type of memo that students can  
 15 14 critically analyze, think, and question but  
 16 15 answers won't be given.  
 17 16 Q. I'm going to tell you that there is no such  
 18 17 memo.  
 19 18 A. Okay.  
 20 19 MR. HARVEY: Correct, Counsel, because it  
 21 20 would have been produced?  
 22 21 MR. THOMPSON: I think the Paragraph 4  
 23 22 might respond to your question.  
 24 23 A. Yes, there you go. With respect to any theory,  
 25 24 students are encouraged to keep an open mind.  
 26 25 The school leaves the discussion of the origin



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SHEET 27 PAGE 105

1 00104  
 2 1 of life to individual students and their  
 3 2 families. As a standards-driven district, which  
 4 3 we are, class instruction focuses on preparing  
 5 4 students to achieve proficiency on  
 6 5 standards-based assessments, yes.  
 7 6 BY MR. THOMPSON:  
 8 7 Q. What happens if a student says what is  
 9 8 intelligent design?  
 10 9 A. That's for you to find out for yourself and  
 11 10 determine the definition. That's what I would  
 12 11 think the teacher would respond with.  
 13 12 Q. Do you know that to be the case? Do you know  
 14 13 that to be true? Do you know that to be true?  
 15 14 MR. THOMPSON: Objection, vague question.  
 16 15 A. That is my understanding. There is no--  
 17 16 BY MR. HARVEY:  
 18 17 Q. What's the basis for your understanding?  
 19 18 A. Because the administration says -- agreed that  
 20 19 intelligent design will not be taught.  
 21 20 Q. But what's going to happen if a student asks the  
 22 21 question? That's what I don't understand. Is  
 23 22 that addressed anywhere?  
 24 23 A. A student asks the question. A student can be  
 25 24 as in any other situation where a teacher is  
 26 25 unfamiliar with the area is the student is

PAGE 107

1 00106  
 2 1 A. The only way I know that is I have read several  
 3 2 different scientists have supported the theory  
 4 3 of intelligent design.  
 5 4 Q. Where have you read that?  
 6 5 A. Oh, I don't know, in papers or something.  
 7 6 Q. Do you have copies of those papers?  
 8 7 A. No.  
 9 8 Q. Were they presented to the board?  
 10 9 A. I don't think so. I don't know that, no, unless  
 11 10 you have them.  
 12 11 Q. Were they discussed by the board?  
 13 12 A. I'm not sure. I don't recall.  
 14 13 Q. Do you know who these scientists were?  
 15 14 A. Not offhand, no.  
 16 15 Q. Do you know what--  
 17 16 A. They looked reputable.  
 18 17 Q. But when they said intelligent design, do you  
 19 18 know what they were talking about when they--  
 20 19 A. No, don't know.  
 21 20 Q. Do you know where the books Of Pandas and People  
 22 21 are going to be kept at the school?  
 23 22 A. In the library.  
 24 23 Q. Why in the library?  
 25 24 A. It appears to be the best place for them.  
 26 25 Q. Are they going to be available in the classroom?

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1 00105  
 2 1 encouraged to explore that subject on their own.  
 3 2 Q. So that's what the student would be told--  
 4 3 A. Certainly.  
 5 4 Q. --they should explore it on their own?  
 6 5 A. Yes.  
 7 6 Q. But what if they just said I just want to know  
 8 7 what intelligent design is?  
 9 8 MR. THOMPSON: Objection, that's vague and  
 10 9 hypothetical, but go ahead.  
 11 10 A. Then you need to find out that for yourself.  
 12 11 BY MR. HARVEY:  
 13 12 Q. Are they given any guidance on how to find that  
 14 13 out?  
 15 14 A. They are told Pandas and People is available.  
 16 15 Q. You said that you wanted the reference to  
 17 16 intelligent design in the resolution, correct?  
 18 17 A. Yes.  
 19 18 Q. You said that because you wanted students to  
 20 19 think critically?  
 21 20 A. Um-hum.  
 22 21 Q. Is that correct?  
 23 22 A. Yes.  
 24 23 Q. How do you know that intelligent design is  
 25 24 scientific in nature as opposed to religious in  
 26 25 nature?

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1 00107  
 2 1 A. Not that I'm aware of, no.  
 3 2 Q. Did you know that the superintendent originally  
 4 3 said that they would be available in the  
 5 4 classroom?  
 6 5 A. No, I did not know that.  
 7 6 Q. What about can the teachers teach about  
 8 7 creationism if they want to?  
 9 8 A. That's never been discussed.  
 10 9 Q. So they could if they wanted?  
 11 10 MR. THOMPSON: Objection. She's answered  
 12 11 the question, it's never been discussed.  
 13 12 BY MR. HARVEY:  
 14 13 Q. Can teachers teach about intelligent design or  
 15 14 creationism if they want to?  
 16 15 A. I have no clue.  
 17 16 Q. Are board meetings taped?  
 18 17 A. Yes.  
 19 18 Q. Who does the taping?  
 20 19 A. The administration.  
 21 20 Q. Who at the administration?  
 22 21 A. The secretary.  
 23 22 Q. Who is the secretary?  
 24 23 A. Changes.  
 25 24 Q. What do you mean it changes?  
 26 25 A. Well, it was Denise. Then it was Ed Hermans,



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1 00108  
2 1 and then it was-- Now it's Karen Holtzapple.  
3 2 Q. Do you know if the board meeting on October 18th  
4 3 was taped?  
5 4 A. Well, of course it would have been taped, yes.  
6 5 Q. Do you know if Mr. Wenrich had a disagreement  
7 6 with Mr. Buckingham at the end of the meeting on  
8 7 November 18th?  
9 8 A. No, I have no recollection.  
10 9 Q. Please take a moment to look at Deposition  
11 10 Exhibit 2. Please read the first four pages.  
12 11 I'd like to ask you some questions about that.  
13 12 I meant to say the first six pages, I'm sorry.  
14 13 Let me just ask you a few questions about this.  
15 14 Have you ever discussed the No Child Left Behind  
16 15 Act of 2001 with anyone on the board?  
17 16 A. Yes.  
18 17 Q. Have you discussed it in the context of the  
19 18 biology curriculum?  
20 19 A. I'm not sure.  
21 20 Q. The language that's quoted here on Pages 2 and  
22 21 3-- Well, first of all, let me ask the  
23 22 question, have you ever read this before, the  
24 23 language you just read on Pages 1 through 6?  
25 24 A. Yes.  
26 25 Q. What parts had you read before?

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1 00109  
2 1 A. I'm not sure.  
3 2 Q. You're not sure?  
4 3 A. You're saying did I ever read this before?  
5 4 Q. Pages 1 through 6, the portions that you just  
6 5 read, had you ever read any part of it before  
7 6 today?  
8 7 A. Yes.  
9 8 Q. Which parts?  
10 9 A. I'd say all of it.  
11 10 Q. When did you read it?  
12 11 A. Last night.  
13 12 Q. Before that, had you ever read it?  
14 13 A. No.  
15 14 Q. Any part of it?  
16 15 A. I'm not sure.  
17 16 Q. You don't recall reading--  
18 17 A. No.  
19 18 Q. --any part of it before. Is that correct?  
20 19 A. I don't recall reading any part before, that's  
21 20 correct.  
22 21 Q. Before last night?  
23 22 A. That's correct.  
24 23 Q. Before last night, were you aware of any  
25 24 language in the legislative history of the No  
26 25 Child -- the Santorum amendment to the No Child

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1 00110  
2 1 Left Behind Act that referred to science or  
3 2 intelligent design?  
4 3 A. I had heard something.  
5 4 Q. What had you heard?  
6 5 A. I don't recall exactly what I heard.  
7 6 Q. Anything about it, do you remember?  
8 7 A. Not particularly, no.  
9 8 Q. Was it in the context of a board meeting?  
10 9 A. Not sure where.  
11 10 Q. There's some language quoted on Page 4 here from  
12 11 two Supreme Court cases?  
13 12 A. Page 4?  
14 13 Q. Yes.  
15 14 A. Okay.  
16 15 Q. Do you see that? Had you ever heard of any of  
17 16 that language before?  
18 17 A. No.  
19 18 MR. HARVEY: Please mark this as Deposition  
20 19 Exhibit Number 7.  
21 20 (Plaintiff's Deposition Exhibit #7 marked  
22 21 for identification)  
23 22 BY MR. HARVEY:  
24 23 Q. I've handed you what has been marked as  
25 24 Plaintiff's Deposition Exhibit Number 7. It's a  
26 25 page from the website of the Thomas More Law

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1 00111  
2 1 Center.  
3 2 A. Okay.  
4 3 Q. Have you ever been to that website?  
5 4 A. Nope.  
6 5 Q. Have you ever visited any websites about  
7 6 intelligent design or any of the subjects in  
8 7 this lawsuit?  
9 8 A. I may have visited some on intelligent design  
10 9 but never theirs.  
11 10 Q. Do you know which one you visited?  
12 11 A. No.  
13 12 Q. Now, the Thomas More Law Center is representing  
14 13 the district in this lawsuit?  
15 14 A. Yes.  
16 15 Q. They're providing that representation free of  
17 16 charge?  
18 17 A. Excuse me?  
19 18 Q. They are providing that representation free of  
20 19 charge?  
21 20 A. To the best of my knowledge.  
22 21 Q. Now, this document which comes from their  
23 22 website says referring to the Thomas More Law  
24 23 Center, quotes, I'm reading the second full  
25 24 paragraph, our purpose is to be the sword and  
26 25 shield for people of faith, providing legal

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1 00112

2 1 representation without charge to defend and

3 2 protect Christians and their religious belief in

4 3 the public square.

5 4 A. Okay.

6 5 Q. Did you know that that was the purpose of the

7 6 Thomas More Law Center?

8 7 A. No, I did not.

9 8 Q. Did you have any understanding of why the Thomas

10 9 More Law Center was representing the district

11 10 for free?

12 11 A. You don't look a gift horse in the mouth.

13 12 Q. So, in other words, you don't have any

14 13 understanding of why they were doing it for

15 14 free?

16 15 A. No.

17 16 Q. You didn't ask any-- That didn't raise any

18 17 question in your mind?

19 18 A. Explain that further.

20 19 Q. You had no question in your mind about why the

21 20 Thomas More Law Center would represent the

22 21 district for free. Isn't that correct?

23 22 A. Right, that's correct.

24 23 Q. Please go to Exhibit 5, the one with the rubber

25 24 band around it. Go to the very last -- the very

26 25 end of it. There's two pages at the end.

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00114

1 A. Yes.

2 Q. Do you know the subjects to be discussed

3 tonight?

4 A. I have the agenda, but it was nothing -- just

5 normal. It was nothing-- Why?

6 MR. THOMPSON: Just answer the question.

7 MR. HARVEY: I don't have any further

8 questions, but just let me confer with my

9 co-counsel for just a second.

10 (Recess taken)

11 MR. HARVEY: Thank you for your time today.

12 (The deposition concluded at 12:28 p.m.)

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1 00113

2 1 A. Yes.

3 2 Q. I don't want you to read the whole thing because

4 3 we're running out of time here, but I just want

5 4 you to look at it and tell me whether you've

6 5 ever seen these two pages before.

7 6 A. No, I haven't.

8 7 Q. Please look at the second page as well.

9 8 A. Am I supposed to-- Do you want me to read the

10 9 whole thing or not?

11 10 Q. You don't need to read it. I just want you to

12 11 look at it long enough to tell me whether you've

13 12 ever seen it before or not.

14 13 A. No, I've never seen it before.

15 14 Q. Is the district going to give students the

16 15 option of not sitting in the class when the

17 16 statement about intelligent design is read?

18 17 A. We give parents options to excuse their student

19 18 for anything they object to. That's a standard.

20 19 Q. Did you know that there was anything special

21 20 with respect to this that was being prepared to

22 21 give students an option to not be present?

23 22 A. I think Mike may have mentioned it sometime.

24 23 Q. Do you know if the board approved it?

25 24 A. No, the board did not.

26 25 Q. You have a board meeting tonight, right?

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00115

1 COMMONWEALTH OF PENNSYLVANIA :

2 COUNTY OF YORK :

3 I, Bethann M. Mulay, Reporter and Notary

4 Public in and for the Commonwealth of

5 Pennsylvania and County of York, do hereby

6 certify that the foregoing deposition was taken

7 before me at the time and place hereinbefore set

8 forth, and that it is the testimony of:

9

10 SHEILA HARKINS

11

12 I further certify that said witness was by

13 me duly sworn to testify the whole and complete

14 truth in said cause; that the testimony then

15 given was reported by me stenographically, and

16 subsequently transcribed under my direction and

17 supervision; and that the foregoing is a full,

18 true and correct transcript of my original

19 shorthand notes.

20

21 I further certify that I am not counsel for

22 or related to any of the parties to the

23 foregoing cause, or employed by them or their

24 attorneys, and am not interested in the subject

25 matter or outcome thereof.

Dated at York, Pennsylvania this 4th day of

January, 2005.

Bethann M. Mulay

Registered Professional Reporter

Notary Public

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